

REPORT
OF THE
DIRECT TAXES ADMINISTRATION
ENQUIRY COMMITTEE

1958—59

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS



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CHAPTER 1

GENERAL

1. Until such time as the Department and the taxpaying public gain sufficient experience of the working of the existing statutes, the present position of administering the various taxes under the different Acts should continue. (Para. 1.4)

2. It is not worthwhile to introduce a system of assessment on the basis of one comprehensive return of the income, wealth, expenditure and gift. (Para. 1.5)

3. The designation of the assessing officers under all the direct taxes Acts should be changed to 'Direct Taxes Officers' and the designation of the other authorities to Appellate Assistant Commissioner, Direct Taxes, Inspecting Assistant Commissioner, Direct Taxes, Commissioner of Direct Taxes and Direct Taxes Appellate Tribunal. It is also necessary to change the designation of the Income-tax Department into the 'Direct Taxes Department'. (Para. 1.6)

4. Frequent changes in the statutes adversely affect the efficiency of the Department and should, therefore, be avoided. (Para. 1.8)

5. All substantial changes in the law should, as far as possible, be effected through specific amending Acts which would provide opportunities for detailed consideration by the Parliament, instead of through the Finance Bills as at present. (Para. 1.9)

6. Simplification of taxing statutes is not an easy task. However, if changes in the statutes are reduced to the barest minimum and the provisions are arranged more logically and expressed in clearer language much of the existing ambiguity would disappear. (Para. 1.10)

7. It is essential that appropriate measures are taken to enable the State to secure its due amount of taxes. For this purpose, the administration has to be so geared that the State is able to collect the taxes in full without causing any undue inconvenience to the assesseees. (Para. 1.14)

CHAPTER 2

ASSESSMENTS—I

(PROCEDURES)

Total quantum and arrears of assessments

8. The Department should endeavour to complete all assessments, as far as possible, in the assessment year itself and, save in exceptional cases, no assessment should remain pending for more than two years. (Para. 2.8)

Measures for expediting disposal

9. Assesseees having income from business, profession or vocation should be statutorily required to file the returns of income within four months after the close of the accounting year or by 30th June following that year, whichever is later. For all other assesseees, the last date for filing of returns should be 30th June, regardless of their accounting year. In suitable cases, where the accounting period

for business, profession or vocation ends after 31st December, the assessing officer should be empowered to grant on his own appropriate extensions of time for filing the return, up to a date not exceeding beyond a period of six months from the end of the accounting year. In any other case, extension should be granted by him only after obtaining the previous permission of the Commissioner and on conditions which might include the furnishing of adequate security for the tax that might become due. In all cases of extension, the levy of interest at six per cent per annum on the tax that would become payable on assessment, should be compulsory and statutorily laid down. Assesseees who do not file the returns by the prescribed or the extended date should be subjected to deterrent penalties which should vary according to the period of default. (Paras. 2.10 and 2.11)

10. The statutory provision, under Section 22(1) of the Income-tax Act, for the issue of a general public notice should be deleted. Instead, a simple advertisement should be issued in the beginning of each assessment year, reminding the public about their liability to file their returns within the prescribed dates.

(Para. 2.12)

11. As a matter of convenience, the Department should send return forms to the existing assesseees by ordinary post under a general certificate of posting, so as to reach them before the 30th April. However, if a person does not file the return within the time-limit or within the extended time, he should be considered to be in default unless he can show that he had applied for return form to the assessing officer in time and the same had not been supplied to him.

(Paras. 2.13 and 2.15)

12. The responsibility for a preliminary scrutiny of returns should be specifically assigned to the Inspector or Head Clerk. Such a scrutiny should be restricted to pointing out technical defects which have a material bearing on the assessment.

(Para. 2.16)

13. Though assessment proceedings may have to be adjourned on account of genuine difficulties of assesseees, adjournments should not be given as a matter of course but only where they are justified.

(Para. 2.17)

14. The assessing officers should have full discretion to fix their programmes of assessment work. They should, however, have no objection to adjusting these programmes to suit the convenience of assesseees' representatives, should the latter so request.

(Para. 2.18)

15. Assessing officers should give a minimum of eight days' time from the date of service of a notice for its compliance.

(Para. 2.19)

16. The need for planning of work and prior study of a case before fixing it for hearing is nowhere greater than in the Income-tax Department.

(Para. 2.21)

17. The use of standardised questionnaire in respect of important industries, trades and professions should be restricted to big cases only and be relevant to the facts of the case.

(Para. 2.22)

18. Each assessing officer should chalk out, in the beginning of the year, a plan of his work for the year. In doing so, he should take due care that revenue-yielding and arrear cases are taken up sufficiently early in the year, that all pending assessments in a case are taken up together and that the assessments under the various direct taxes Acts in a case are disposed of simultaneously.

(Para. 2.23)

19. Wherever sufficient number of cases of similar trades, business, etc., are available, functional circles should be organised to deal separately with the cases of each trade, business, etc.

(Para. 2.24)

Small income group scheme

20. The amount of time and labour devoted to cases of different categories should bear relation to their revenue potential. The time and energy being spent on small cases appears to be totally disproportionate to the revenue yields therefrom. The Department must get out of the present grooves and make a bold departure in respect of the assessment of small income cases. In such cases the income returned should be generally accepted after preliminary scrutiny and the assessment made under Section 23(1) of the Income-tax Act without calling the assessee to the tax Office. Detailed examination of accounts and other scrutiny would be made only once in four years. This new approach will have a psychological effect and improve the relations between the Department and nearly five lakhs of assessees. The details of this scheme are outlined in paragraphs 2.27 to 2.32. (Para. 2.26)

21. The proposal for having on-the-spot assessments is not favoured. However, in big cities like Bombay, Calcutta, Madras and Delhi, the assessing officers dealing with small income cases should have their offices in the various localities, if the number of cases justifies such local offices. In the mofussil areas, an assessee should be called to the nearest place which the assessing officer visits during the year, unless the assessee requests for a hearing at the headquarters of the officer. (Para. 2.34)

Middle and large income group assesseees

22. Cases of large income group assesseees should be segregated, wherever possible, and entrusted to experienced and competent officers. (Para. 2.35)

23. Where returns or accounts have been accepted in the past, they should not be subjected to detailed enquiry every year, unless the assessing officer comes in possession of definite information regarding concealment of income, etc., in such cases. (Para. 2.36)

24. The proposal for deleting the proviso to Section 13 of the Income-tax Act relating to estimated assessments is not favoured. However, to remove various difficulties experienced in the application of this proviso, the following steps should be taken:—

- (a) The Department should, after due study of the local conditions and practices, and in consultation with the various chambers and trade associations, consider the feasibility of prescribing the minimum accounts and the type of accounts which should be maintained in respect of each trade, business or vocation. If accounts are kept in the prescribed form or maintained in proper manner with sales and purchases supported by vouchers or otherwise proved, they should be accepted unless there are grave omissions or there is evidence of suppressed sales or undisclosed purchases;
- (b) In any case where it is proposed to reject the results shown by the account books, the assessee must be given an opportunity to explain his viewpoint. Before finalising the assessment, the assessing officer should also give to the assessee an indication of the rate of gross profits that is proposed to be adopted and the relevant particulars of comparable cases, ensuring that such information does not enable the assessee to identify the person to whom the particulars relate;
- (c) In cases where accounts are reliable in part, estimates should be restricted only to such other part as is not acceptable;

- (d) Gross profit rates registers in the prescribed form should be maintained, tradewise, in each tax Circle or Ward;
- (e) A list of the cases where the proviso to Section 13 of the Income-tax Act had been applied should be sent, every fortnight, by each assessing officer to the Inspecting Assistant Commissioner;
- (f) In their orders on appeals against the invoking of the proviso and the gross profit rates applied, the appellate authorities should fully and properly reason out the relief which they give. (Para. 2.41)

25. A provision should be made in the Income-tax Act requiring all assesseees to furnish statements of total wealth every fourth year along with their returns of income. (Para. 2.42)

26. Before finalising an assessment, the assessing officer should make a tentative computation of the total income, wealth, etc. Where the additions or disallowances proposed to be made are of small amounts only, he may discuss them orally with the assessee and/or his representative and record the result of the discussion on the order sheet. However, where substantial additions are proposed he should allow an opportunity to the assessee, in writing, to give his point of view within a fortnight. (Para. 2.43)

27. Audit of accounts in all non-company cases of business, profession or vocation, where the assessed total income in any of the last three years exceed Rs. 50,000 should be made compulsory by law and the auditors should be required to give audit certificate in a prescribed form. Such an audit should also be compulsory in those cases of business, profession or vocation where the returned income, for the first time, exceeds Rs. 50,000. (Para. 2.50)

Improvements in methods of work

28. In cases where production of books of accounts is necessary and the assessments could be completed in one hearing, notices under Sections 23(2) and 22(4) of the Income-tax Act should be issued simultaneously and preferably in a combined form. (Para. 2.53)

29. It is not desirable to revive the cadre of Examiner of Accounts in the form in which it existed till 1945. However, the assessing officers should be permitted to utilise the assistance of the Inspectors in the matter of routine examination of accounts or detailed examination on specific issues. In addition, there should be a set of experienced Examiners, preferably Chartered Accountants, at important centres of various Commissioners' charges to assist the officers in examination of complicated cases. (Para. 2.55)

30. Suitable administrative instructions should be issued to the effect that in *bona fide* cases, expenses should be allowed after scrutiny on broad lines without going into meticulous details, and that interest, rebates and other trade discounts should be allowed in the years in which such adjustments are recorded in the books. (Para. 2.56)

31. It should be ensured, by executive action, that assessment order is passed by the assessing officer as early as possible, after the final hearing, but in no case later than thirty days. There should be a statutory provision in all the direct taxes Acts requiring the assessing officer to send a certified copy of the assessment order along with the notice of demand. (Para. 2.57)

32. In order to reduce complications in the calculations of tax, the following steps should be taken:—

- (a) the basic rates of income-tax should be incorporated in the statute itself;

- (b) to meet the budgetary requirements from time to time, variations should be made in the rates of sur-charges through the annual Finance Acts. Whenever necessary, however, the basic rates may also be increased or decreased;
- (c) without affecting any of the reliefs at present admissible, such of the sur-charges on income-tax as go to the divisible pool should be merged with the basic income-tax rates;
- (d) in the case of company taxation, instead of prescribing the rate of supertax at 50 per cent and then providing several rebates therefrom for various types of companies, the effective rate of supertax for each of these types should be specified in the Act itself;
- (e) in the case of registered firms having total income exceeding Rs. 40,000, the procedure for allowing rebates to the partners should be suitably amended so as to simplify the calculations of tax, without affecting the incidence or quantum of taxation;
- (f) ready-reckoners for calculations of taxes should be made available to the departmental officials immediately after the passing of the Finance Bill; and
- (g) all tax offices should be equipped with one or more calculating machines.

(Para. 2.58)

33. Internal audit parties for conducting post-audit of tax calculations etc., should be established on a permanent footing in all Commissioners' charges and they should be adequately staffed. They should be as zealous in pointing out mistakes which have resulted in excess recoveries of tax from assessees as they are in detecting cases of under payment. There should also be a more comprehensive and systematic pre-audit of tax calculations than is being done at present.

(Paras. 2.60 and 2.61)

34. The assessing officers should maintain two separate order sheets—one for recording brief details of all the proceedings relating to an assessment and the other for noting matters of confidential nature like inter-departmental correspondence, etc. The former order sheet alone should be open to inspection by assessees and copies thereof should be made available to them, subject to the usual rules.

(Para. 2.62)

35. Assessment proceedings should not be delayed in any case merely because there would be no further recovery of tax or a refund might result.

(Para. 2.63)

36. Assessing officers should be administratively required to report to their higher authorities cases where assessments have not been completed within twelve months from the date of the filing of the returns, giving reasons therefor.

(Para. 2.64)

37. Precautionary assessments should be made only in exceptional cases where there is a likelihood of irretrievable loss to revenue.

(Para. 2.65)

38. The present return forms require simplification in certain respects. They should be so revised and rationalised that the columns which are mostly superfluous are deleted, that each assessee is required to give details only in respect of those matters which are relevant to his assessment and that such enquiries of a general nature which are almost invariably made at present, in the course of assessment proceedings, are incorporated in these forms.

(Para. 2.66)

39. The power of the Central Government to grant relief under Section 60(2) of the Income-tax Act in accordance with the rules already laid down should statutorily vest in the Commissioners of Income-tax.

(Para. 2.68)

CHAPTER 3
ASSESSMENTS—II
(SPECIAL PROBLEMS)

Foreign branches

40. The Department should take special steps to ensure that the statutory provisions and instructions of the Central Board of Revenue for keeping the tax demands relating to foreign income and assets in abeyance, until monies can be repatriated to India, are strictly followed by the assessing officers and no harassment is caused to the assessee. (Para. 3.2)

41. While the income from or the value of shares in Indian companies having assets in foreign countries, which have imposed restrictions on the repatriation of profits or capital to India, should continue to be included in the hands of the shareholders for assessment purposes, the amount of tax to be covered should be limited to the sum that would have been payable, had the income or assets in these countries not been included in the assessee's total world income or wealth. The balance of the demand should not be recovered until restrictions on their repatriation are removed. (Para. 3.3)

42. The certificates of assessment issued by the foreign taxation authorities in regard to transactions in foreign countries should be invariably accepted as a sufficient proof, unless there are reasons to suspect the *bona fides* of such certificates. In such cases there should be no need for insisting on the production of account books or even audited balance sheets or statements of accounts. (Para. 3.4)

Depreciation allowances

43. The existing method of allowing depreciation on the basis of 'written down value' for assets other than ocean-going ships, should continue. (Para. 3.8)

44. The present method of allowing depreciation on the basis of the number of months of use of an asset in a year should be changed. Depreciation at full rates should be allowed in respect of an asset which has been used for the business for six months or more during the 'previous year'. For an asset which has been used for more than a month but less than six months, depreciation should be allowed at half of the prescribed rates. No depreciation should be admissible as regards an asset which has not been used for a total period of more than a month during the 'previous year'. (Para. 3.9)

45. The present procedure for making changes in the categorisation of assets and rates of depreciation prescribed in Rule 8 of the Income-tax Rules is satisfactory and should continue. However, in future, before making any changes or amendments in this regard, the views of the Direct Taxes Central Advisory Committee which is being proposed, should be obtained and duly considered by the Central Board of Revenue. (Para. 3.10)

46. Provisions of Section 10(2)(vii) of the Income-tax Act should be applicable to 'furniture' also. (Para. 3.12)

47. Where an asset is purchased and sold in the same year, no depreciation should be allowable, and the difference between its purchase value and the sales price should be treated as capital gain or loss, as the case may be. (Para. 3.13)

48. Expenses of repairs to leased properties used for the purposes of business, profession or vocation, and normal depreciation on alterations or additions made by the lessee to such properties should, by executive instructions, be allowed in

his assessment to the extent to which he would have been entitled to them, had he been the owner of the premises. This concession should be available only for the period of the lease. Any residual depreciation which cannot be given or remains unabsorbed, owing to the termination of the lease, should not be allowed or carried forward, either in the hands of the lessee or the lessor. (Para. 3.15)

49. In order to avoid difficulties arising out of different methods of calculating depreciation in the cases of electricity undertakings for income-tax purposes and for the purposes of Electricity (Supply) Act, 1948, the latter Act should be suitably amended so as to provide for appropriate reserves of depreciation in earlier years. (Para. 3.16)

Development rebate

50. The condition that for the allowance of development rebate, the asset should not be sold or otherwise transferred to any person other than the Government for a period of ten years needs to be relaxed. This period should be reduced to eight years. The restrictions should not apply to transfer or sale of assets to Government Companies, Statutory corporations and public utility companies, and those resulting from the absorption of one company, by amalgamation or otherwise, by another company. (Para. 3.22)

51. If a firm which had been allowed development rebate in respect of certain assets converts itself into a private limited company within the period prescribed for allowance of such rebate, and the share capital of the erstwhile firm in the company remains either the same or is more and the amount of development rebate kept in reserve by the firm is transferred *en bloc* to the company which also keeps it under the same conditions as would have applied to the firm, had it continued, the rebate should not be forfeited. (Para. 3.23)

52. There should be a general provision in the statute conferring on the Central Board of Revenue, residuary power of relaxation of the various conditions for entitlement of development rebate in exceptional cases. (Para. 3.24)

53. In cases of companies which acquire new machinery entitled to development rebate but which incur overall losses within the statutory period of ten years, the rebate should not be withdrawn, if such a withdrawal results in the levy of tax. (Para. 3.25)

54. The intention of the legislature with regard to the word 'installed' for the purposes of allowing development rebate should be clarified beyond all doubts by suitable amendment of the Income-tax Act. Development rebate should also be admissible in respect of mobile plant and machinery, such as earth removers, cranes, bulldozers, aero-engines, coal mining machinery, etc., as well as on trucks and tractors and other machinery which are used exclusively in connection with mining operations. (Para. 3.26)

Bad debts and irrecoverable loans

55. Assessing officers should not disallow the claim of a bad debt on purely technical grounds. If the officer is satisfied about the genuineness of a bad debt, he must allow it either for the 'previous year' in respect of which it is claimed or for any of the earlier 'previous years' in which, according to the officer, the debt had actually become bad, provided that such earlier 'previous year' is not more than four years anterior to the 'previous year' in which the debt is claimed to have become bad and actually written off. The assessing officer's findings in this respect should be appealable. The appellate authorities should, in such appeals, give a definite finding as to the year within the four years' period to which the

bad debt relates. The effect of the appellate order should be given by the assessing officer by rectification of the relevant assessment order under Section 35 of the Income-tax Act. These considerations should equally apply to claims of irrecoverable loans. (Para. 3.30)

56. If the assessing officer finds that the write off of a bad debt is premature, he must make a specific note to this effect in the assessment records and allow the bad debt in the relevant year irrespective of the fact that the debt has been written off in the earlier year. (Para. 3.31)

57. In the case of public banking companies, although statements giving all relevant particulars in regard to claims of bad debts and irrecoverable loans in respect of their assessments should continue to be supplied by them, the assessing officer should not exercise any meticulous check over them, nor call for additional information except in cases where he has reasons to doubt the genuineness or the correctness of their write off. (Para. 3.33)

Mutual associations

58. Government should enter into suitable long-term administrative arrangements with chambers of commerce, trade and professional associations etc. so as to tax them on the entire surplus of receipts over out-goings without allocation between mutual and non-mutual activities. Annual subscriptions paid by members of these bodies should be deducted from their income and so also the surplus distributed to the members, such surplus being taxed in the hands of the recipients. The proposal for total exemption of chambers of commerce from tax is not approved. (Paras. 3.36 and 3.37)

Section 23A Companies

59. The existing provisions of Section 23-A of the Income-tax Act relating to statutory percentages of the net distributable profits which should be distributed as dividends by Section 23A companies should continue. The administrative discretion for relaxing these percentages which was available up to 1957 in the form of sub-sections 3 and 4 of Section 23A should not be revived. (Para. 3.43)

60. The provision of Section 23A(2) should be so amended as to provide that the company would get an opportunity to make a further distribution of its profits and gains to make up the statutory percentage, if—

- (a) the distribution made by the company falls short of the statutory percentage by not more than fifteen per cent of its total income, as reduced by the amounts referred to in clauses (a), (b) and (c) of Section 23A(1); or
- (b) the company had distributed not less than the statutory percentage of the total income as reduced by the amounts, according to the return made by it under Section 22(2), but in the assessment made by the assessing officer, a higher total income is arrived at and this difference is due to any reason other than deliberate concealment. (Para. 3.46)

61. The provisions of the old sub-section (6) of Section 23A of the Income-tax Act were equitable and easily administerable, and they should, therefore, be restored. (Para. 3.47)

62. Such of the foreign profits which could not be remitted and also the taxes thereon should both be excluded in the calculation of the distributable income for the purposes of Section 23A of the Income-tax Act. Simultaneously, it should be made clear in the statute that if and when such profits are repatriated, they would be included in the distributable income. (Para. 3.48)

63. The time-limit for passing an order under Section 23A of the Income-tax Act in cases of normal assessment should be limited to four years in the same way as for making assessments. Such a time-limit should not apply to cases of companies whose assessments are reopened or made under Section 34 of the Act. (Para. 3.49)

64. It should be made clear in the statute itself that the mere fact that the articles of association of a company give general discretion to its Directors to allow or disallow the transfer of its shares would not mean that the shares are not freely transferable so as to invite the application of Section 23A of the Income-tax Act. (Para. 3.50)

65. The Department should, under administrative instruction, give, on request, a clearance to the companies as to whether on the facts stated by them, the provisions of Section 23A would be applicable or not. (Para. 3.52)

Speculation losses

66. No change is considered necessary in the fundamentals of the provisions of Section 24(1) of the Income-tax Act relating to set off of loss sustained in speculative transactions. However, the following steps should be taken for removing some of the difficulties experienced in the application of the existing provisions:— (Para. 3.54)

- (i) Explanation 2 to Section 24(1) of the Income-tax Act should be expanded so as to clearly specify the various types of hedging transactions which would not be regarded as speculative for the purposes of this Section. Hedging transactions in connected commodities should not be treated as speculative transactions, provided the total of such hedging sales does not exceed the actual stocks and purchase transactions. (Para. 3.55)
- (ii) *Bona fide* hedging transactions entered into by a dealer or investor in shares different from those held by him, upto the amount of his holdings in stocks and shares should not be treated as speculative. (Para. 3.57)
- (iii) Suitable administrative instructions should be issued giving illustrations in order to make the intention of the Government clear as to what constitute speculative transactions and what are hedging transactions. (Para. 3.58)
- (iv) Genuine hedging transactions with parties outside the country should be treated at par with the hedging transactions inside the country. (Para. 3.59)
- (v) Suitable administrative instructions should be issued so as to make it clear that speculative loss, if any, carried forward from the earlier years or the speculation loss, if any, in a year should first be adjusted against speculation profits of the particular year before allowing any other loss to be adjusted against these profits. (Para. 3.60)

Registration of firms

67. Once a firm is registered, there should be no obligation on it to apply for renewal of registration every year, provided the firm files a declaration along with the return of income to the effect that there had been no change in its constitution. Unless a partner who has left a firm intimates the fact of his having done so to the assessing officer, he should continue to remain liable for the tax on his share of the profits. (Para. 3.62)

68. Assessing officers should point out technical errors, if any, in a partnership deed, or application for registration and offer the partners of the firm an opportunity to rectify such technical defects within a month. (Para. 3.63)

69. It should be provided in the Income-tax Act or the rules thereunder, that the firm or firms as constituted during the accounting year should be registered and the demand should be raised against the partners constituting the firm(s) during that year. It should further be provided that the successor firm and/or its partners would also be liable for the tax liability of the succeeded firm or its partners. (Para. 3.66)

Reopening of assessments

70. No change in the time-limits for taking action under Section 34 of the Income-tax Act is called for. However, before reopening an assessment under this Section, the assessing officer should intimate to the assessee the grounds on which the action is proposed to be taken, and give him ten days' time to send his reply. It is after proper consideration of the reply of the assessee that the decision to reopen the case should be taken. (Para. 3.71)

71. Section 34(3) of the Income-tax Act should be so amended as to give the Department at least one year's time from the date of filing of a return under Section 22(3) of the Income-tax Act for completing that assessment. (Para. 3.73)

72. The proposal for incorporating in the direct taxes Acts provisions similar to those of Section 66 of the U.K. Income Tax Act, 1952 is not favoured. (Para. 3.75)

73. Neither the assessee nor the Department should be entitled to have assessments reopened on points of law already concluded merely because there is a later decision of the High Court or the Supreme Court to the contrary. (Para. 3.76)

Taxation of non-residents

74. The proposal for adopting in the Indian Income-tax Act the provisions of U.K. Income Tax Act in regard to taxation of non-residents is not favoured. Executive instructions issued by the Central Board of Revenue regarding the interpretation of the term 'business connection' and in respect of the provisions for the taxability of non-resident should be widely publicised both within and outside the country. (Para. 3.84)

75. Applications for the issue of certificates under the second proviso to Section 42(1) of the Income-tax Act regarding the extent of the tax liability of the agent of a non-resident should be promptly attended to by the assessing officers and disposed of within one month of their receipt. (Para. 3.85)

76. The Department should avoid proceeding simultaneously against the non-resident and his resident agent. (Para. 3.86)

Place of assessment

77. Where an assessee has more than one place of business, profession or vocation, the assessment should be done at the place which is the most important from the point of view of his business activities. (Para. 3.91)

78. It should be made clear that the place of assessment should be taken in relation to the assessment year and not the 'previous year'. (Para. 3.92)

79. Suitable administrative steps should be taken to put a stop to the illegal and incorrect practice of some of the officers to proceed with the assessments without referring the assessee's objections about jurisdiction to the Commissioner, although the objections had been raised by the assessee in time. (Para. 3.93)

80. The provisions of the Explanation to Section 5(7A) of the Income-tax Act should be made applicable to all cases where jurisdiction is transferred from one officer to another. (Para. 3.95)

81. The Central Board of Revenue should take suitable administrative measures to see that the assessing officer assessing at the head office, businesses having various branches obtains necessary information regarding the latter from the respective officers. (Para. 3.96)

Definition of income

82. There is no need for giving an all-embracing definition of the term 'income' in the statute. (Para. 3.97)

Definition of expenses

83. The following categories of expenditure should be considered as allowable deductions in computation of total income under the Income-tax Act:—

- (a) Interest paid or payable on monies borrowed by a partner for investing in the firm as his share of capital;
- (b) expenses incurred prior to the commencement of a business but in connection with the activities leading to such commencement;
- (c) expenses incurred for tax representation during assessment proceedings for settlement of liabilities under the Income-tax, Wealth-tax, Expenditure-tax and Gift-tax Acts. (Para. 3.98)

Right shares

84. While computing the profits made on the sale of right or bonus shares, a reduction should be allowed for the fall in the value of the original shares. (Para. 3.99)

Problems relating to other Direct Taxes Acts

85. A Central Valuation Department for the purposes of valuing different types of assets would be advantageous to both the Department and the assessee. However, to begin with, a Valuation Cell may be created in the Central Board of Revenue for valuing shares of limited Companies. With gain in experience, the Cell may extend its valuation activities to other categories of assets and may ultimately mature into a full-fledged Central Valuation Department. (Para. 3.107)

86. Arbitration by valuers should continue to be available only at the appellate stage before the Tribunal. However, in cases where the valuation of more than one type or category of assets is in dispute, it should be permissible for the assessee as also the Department to name a valuer for all types of assets instead of naming separate valuers for each of the type or category of assets. (Para. 3.108)

87. The valuers appointed for arbitration should give their award within six months, as under the Arbitration Act, unless further time upto three months is allowed. (Para. 3.109)

88. Value of an immovable property adopted for one assessment under the Wealth-tax Act and accepted by the assessee should not normally be disturbed for five years. (Para. 3.110)

89. The only qualification for approving Chartered Accountants for appointment as valuers should be ten years' practice in the profession. No change is suggested in regard to the qualifications prescribed at present for appointment of valuers in jewellery. (Para. 3.112)

90. The following procedure should be adopted for valuation of shares:

Where quotations are available in the stock exchange, the latest quotation anterior to the valuation date should be adopted. In other cases of public limited companies where shares are not quoted in the stock exchanges, the value of their shares may be taken at the price at which transfers of a *bona fide* character have been made before the valuation date. In the case of shares of private limited companies, the break-up value should not be the only criterion for determining the value of the shares, but all other relevant conditions and factors should also be taken into consideration. (Para. 3.113)

91. For the purposes of Wealth-tax assessments, the formula of taking the value of a building at twenty times the municipal annual rental valuation less permissible expenses should not be applied too rigidly and due regard should be had for other relevant factors, including the age and condition of the building. (Para. 3.114)

92. In no case should a life interest in trust property be computed at a figure exceeding the value of the entire trust property itself. Nor should there be double assessment of the same assets, once in the hands of the trust and again in the hands of a beneficiary having a life interest therein. (Para. 3.115)

93. The Central Board of Revenue should formulate rules for valuation of annuities. (Para. 3.116)

94. The basis for valuation of assets left in Pakistan should not be the face value for which the claims have been admitted by the Rehabilitation Authorities of the Government of India, but the realisable value of such claims. (Para. 3.117)

95. It should be provided in Section 2(m)(iii) of the Wealth-tax Act that in cases, where the tax is disputed in appeal and is, therefore, not paid, the disputed liability would be adjusted by rectification as and when the appeal is decided. (Para. 3.118)

96. The Central Board of Revenue should issue instructions prescribing a broad basis for a rational allocation of liabilities in relation to assets chargeable to Wealth-tax and those exempted from this tax. (Para. 3.119)

97. When a certain amount of expenditure is admitted by an assessee, the Expenditure-tax Officer should not make any roving enquiries about that. The instructions already issued by the Central Board of Revenue on this point should be further emphasised. (Para. 3.120)

98. There should be a statutory time-limit of four years from the date of filing of the return for the completion of an Estate Duty assessment. Where assessments are made *ex parte*, the time-limit should be four years from the date the return was due. (Para. 3.122)

99. In mofussil circles the same officer who assesses the assessee for the other direct taxes should also deal with the estate duty cases. In cities, the present circles for dealing exclusively with estate duty cases should continue. (Para. 3.123)

100. Where an accountable person discharges the debts or other liabilities of the deceased and the Department is satisfied that such discharge is *bona fide*, such debts should be allowed to be deducted from the value of the life interest in the trust or other property. (Para. 3.124)

101. The present requirement of the verification in the Estate Duty Return to be made before a magistrate should be removed. Verification for estate duty purposes should have to be made in the same way as for income-tax purposes.
(Para. 3.125)

CHAPTER 4

APPEALS AND REVISIONS

Appellate Assistant Commissioners

102. The Appellate Assistant Commissioners should be transferred from the control of the Central Board of Revenue to that of the Ministry of Law.
(Para. 4.9)

103. Appeals from Central Circles, Special Circles, Company Circles as well as other cases involving large sums in dispute should be grouped together in ten or twelve Special Appellate Ranges in important centres and these should be manned by experienced Appellate Assistant Commissioners.
(Para. 4.10)

104. There is scope for improvement in the methods and procedures of work of the Appellate Assistant Commissioners which can be helpful in expediting disposals and in redressing the grievances of the appellants.
(Para. 4.11)

Appellate Commissioners

105. Two Appellate Commissioners who would be of the same status and rank as Commissioners but functioning under the administrative control of the Ministry of Law should be appointed for exercising administrative control over the Appellate Assistant Commissioners, and carrying out annual administrative inspections with a view to ensuring quicker disposal of work and the maintenance of uniform standards in their approach to problems. In addition, they will also hear appeals on assessments made by Inspecting Assistant Commissioners as well as function as Appellate Controllers of Estate Duty when the Estate Duty (Amendment) Act comes into force.
(Para. 4.12)

Appellate Tribunal

106. The Appellate Tribunal is a necessary and suitable appellate organisation and should continue.
(Para. 4.14)

107. The President of the Appellate Tribunal should be a serving High Court Judge, deputed to act as such by the President of India for a fixed tenure.
(Para. 4.15)

108. As far as possible, officers of the Department of the status of Commissioners of income-tax or Assistant Commissioners senior enough to become Commissioners should be selected for appointment as accountant members. Serving District and Session Judges should, as far as possible, be selected for the posts of judicial members.
(Para. 4.17)

109. As far as possible, the Appellate Tribunal should give reasoned and detailed orders giving full facts and findings so that a clear picture of the issues involved, the arguments advanced and the conclusions arrived at would emerge.
(Para. 4.18)

110. The Appellate Tribunal being the final fact finding authority, it should not be granted enhancement powers under the Income-tax Act. Enhancement powers now vested in it under the other direct taxes Acts should be withdrawn.
(Para. 4.19)

111. The Department or the assessee may be permitted to file a memorandum of cross objections against so much of the order of the Appellate Assistant Commissioner as was against the Department or the assessee in instances where one of them might have gone in appeal. (Para. 4.20)

Panel of Advisers

112. Introduction of non-official element at the appellate stage by constituting a panel of advisers is not favoured. (Para. 4.24)

Rights of appeal

113. Rights of appeal should be provided against the orders passed under the following sections of the Income-tax Act and the corresponding sections of the other direct taxes Acts wherever applicable:

- (i) Section 18(7) under which the person responsible for deducting tax at source and paying it to the credit of the Central Government could be treated as an assessee in default,
 - (ii) Sections 18A(6), 18A(7) and 18A(8) authorising levy of interest and Sections 18A(9) and 18A(10) authorising levy of penalty in instances of late payment or non-payment of the correct amount of advance tax,
 - (iii) Section 23(6) governing the determination of the income of a firm and its division amongst the partners,
 - (iv) Section 23A(1) authorising inclusion of deemed dividends in the total income of a shareholder,
 - (v) Sections 25(3) and 25(4) governing grant of exemption from tax in cases of succession and discontinuance of business,
 - (vi) Rule 6B under which registration, granted to a firm under Section 26A, could be cancelled,
 - (vii) Section 35 authorising rectification of mistakes in the orders passed,
 - (viii) Section 43 under which a person can be treated as agent of a non-resident,
- and
- (ix) Section 44 under which liability could be fixed on partners of firms and members of associations in instances of dissolution or discontinuance of business.

In addition, appeal should also be statutorily provided against orders of the Appellate Assistant Commissioner under the different direct taxes Acts where he refuses to extend time for filing an appeal or dismisses an appeal as not filed in time. (Para. 4.26)

114. Modification in the existing stages of appeal is not favoured. (Para. 4.28)

115. No restrictions should be placed on the existing rights of appeal under the Income-tax Act on the basis of the monetary limit of the income or tax involved. Introduction of such a system under the other direct taxes Acts is also not favoured. (Para. 4.30)

116. There should be no restriction on the rights of appeal in instances where an assessee fails to submit returns or comply with notices. (Para. 4.31)

117. The difficulties caused to the Department on account of assessee's filing writ petitions do not call for a change in the Constitution. However, it should be ensured through appropriate Rules of the High Courts that the Courts give precedence in the matter of hearing of all applications concerning assessment and

collection of the direct taxes, issue of notices of hearing to the Department at the stage of admission of writ petitions, and insist, in suitable cases, on the petitioners furnishing adequate securities to cover taxes in dispute before granting stay orders.
(Para. 4.36)

Disposal of appeals

118. The placing of a statutory time limit within which the appeals should be disposed of is not favoured.
(Para. 4.37)

119. The measures adopted by the Central Board of Revenue with regard to disposal by Appellate Assistant Commissioners have proved effective but the matter must be kept under constant review. If found necessary, the number of Appellate Assistant Commissioners should be increased.
(Para. 4.39)

120. The present strength of the Appellate Tribunal is inadequate and the number of benches should be increased immediately.
(Para. 4.40)

121. The Chief Justices of the various High Courts should be requested to examine the position and take suitable measures such as the constituting of Special Benches for dealing with reference applications under direct taxes and giving priority to them so that the disposal of such cases is expedited.
(Para. 4.41)

122. The Chief Justice of the Supreme Court should be approached with a request for constituting a special direct taxes Bench to deal with appeals under the direct taxes Acts.
(Para. 4.42)

Uniformity in interpretation

123. The present procedure of issuing copies of the instructions of the Central Board of Revenue to the Appellate Assistant Commissioners should continue. However, these will not be binding on them. On a question of law involved in an appeal before the Appellate Tribunal, if varying judgments had been given by different High Courts, the President of the Tribunal may, on a request made to him, refer the question directly to the Supreme Court for a decision.
(Para. 4.45)

Adducing of evidence

124. The present system under which admission of fresh evidence before the Appellate Assistant Commissioner is left to his discretion should continue. No modifications are necessary at present with regard to adducing of evidence before the Appellate Tribunal.
(Para. 4.48)

Collection of taxes in dispute

125. The present provision for the stay of disputed demands at the discretion of the assessing officer should continue but the assessee should be provided with a right to approach the Inspecting Assistant Commissioner, the Commissioner and the Central Board of Revenue in instances where his request is not acceded to.
(Para. 4.52)

126. Provisions analogous to what is contained in Section 66(7) of the Income-tax Act and the corresponding sections of the other direct taxes Acts should not be introduced to cover instances of appeals before other authorities.
(Para. 4.55)

Costs in tax appeals

127. The practice of awarding costs prevalent in Civil Courts cannot be easily adopted for appeal proceedings under the direct taxes Acts as far as appeals before the Appellate Assistant Commissioners and Appellate Tribunal are concerned.
(Para. 4.56)

128. The existing procedure of granting expenses incurred in connection with proceedings before the assessing authorities itself constitutes an extra statutory concession and, there is no justification for a further extension of the concession to cover costs incurred in appeal. (Para. 4.57)

Representation of the Department before Appellate Authorities

129. There is a need for improvement in the matter of representing the Department before the various appellate authorities. The Senior Departmental Representative before the Tribunal should invariably be a person of the status of an Assistant Commissioner. (Para. 4.58)

Revisionary powers of Commissioners

130. In view of the discretionary power of the Commissioner to condone delays, no change is called for with regard to the time limit under Section 33A of the Income-tax Act and the corresponding sections of the other direct taxes Acts. The Commissioners should condone delays freely, especially in cases of over-assessments. (Para. 4.59)

131. While in instances where the assessee does not require a hearing the revision fee may continue to be Rs. 25 as at present, in instances where the assessee desires a hearing by the Commissioner, he should pay a fee of Rs. 75. The Commissioner should not, however, be precluded from granting a hearing to the assessee in cases of the former category if, for any reason, he considers it necessary. (Para. 4.60)

132. It is necessary not only to ensure that the pending petitions are disposed of immediately but also that the tendency towards an increase in their number is arrested. (Para. 4.61)

CHAPTER 5

COLLECTION AND RECOVERY

Problem of arrears

133. The total amount of taxes in arrears, appears to be substantial. However, when the sums held in abeyance for settlement of relief claims and others which should be written off are taken into consideration, the effective arrears are much less. (Para. 5.10)

Causes of arrears

134. Broadly, it can be stated that both belated assessments as well as over assessments are responsible for a major portion of the existing arrears. (Para. 5.15)

Writing off and scaling down of demands

135. By a suitable modification of the Delegation of Financial Power Rules, the powers of write off of Commissioners should be limited to irrecoverable demands not exceeding two lakhs of rupees in an individual case and write off of amounts exceeding two lakhs in a case should be effected by a Committee consisting of the Chairman and two members of the Central Board of Revenue. (Para. 5.17)

136. A system of scaling down of demands should be adopted, subject to the monetary limit and other conditions mentioned with regard to write off of irrecoverable demands. The details of write off and scaling down of demands above a certain limit and the attendant circumstances should be presented to the Parliament through the annual administration reports of the Department. (Para. 5.20)

Procedural measures for improving collection

137. An improvement in collection is possible within the existing legal frame work by proper planning of assessment work, securing agreement on payment of taxes in cases involving substantial demands at the stage of assessment itself, issuing and serving notices of demand without delay, disposing of appeals involving large sums expeditiously, disposing of applications under Section 27 of the Income-tax Act and passing of orders of rectification etc. expeditiously, improving the manner of issue of recovery certificates to the Collectors, relieving assessing officers of their routine administrative duties, issuing distress warrants on a larger scale and establishing better relationship between Central and State officials. (Para. 5.22)

Deduction of tax at source

138. In instances where contracts are granted by the Central or State Governments, local authorities or statutory corporations, the paying authorities should insist on tax clearance certificates for granting the contracts and should, in addition, retain $2\frac{1}{2}$ per cent of the total value of the contract from the final or earlier instalments of payment, till the assessee produced a tax clearance certificate. There is no scope for extending the principle of deduction of tax at source either to cover further items under the Income-tax Act or to cover items under the other direct taxes Acts. (Para. 5.27)

139. Rule 11A of the Income-tax Rules should be modified in such a way that in deserving cases, while the payment of tax deducted should be made every month, the employers may be allowed to submit even quarterly or half-yearly statements. (Para. 5.28)

Advance payment of tax

140. The system of payment of tax in advance has been found useful and should be continued. (Para. 5.31)

141. An assessee should be liable for interest and penalty only if his estimate of advance tax turns out to be less than 75 per cent of the tax eventually assessed, after making adjustments for items of income on which tax is deductible at source and also the variations in the rates of tax made by the subsequent Finance Acts. (Para. 5.32)

142. The power vested with the Income-tax Officer to revise demands under Section 18A of the Income-tax Act on the basis of the latest assessed income should be utilised even in cases where such a procedure might be beneficial to the assessees. The position should be made clear in the statute itself and the term appearing as 'may' in the third proviso to Section 18A(1) should be changed to 'shall'. (Para. 5.33)

143. The liability arising under Section 42 of the Income-tax Act is on the non-resident and there is no case for exempting income under this Section assessed through an agent from the provisions of Section 18A. (Para. 5.34)

144. The present basis of calculation of tax at the rates of the current financial year for issue of a notice under Section 18A should be modified and the Income-tax Officer should merely repeat the demand relating to the assessed income of the latest year. (Para. 5.37)

145. The Department should continue to issue the notice under Section 18A in the case of assessees who are already on its records. (Para. 5.38)

146. The date for the payment of the last instalment of advance tax should be advanced by 15 days. Correspondingly, the dates for the payment of the other instalments should also be similarly advanced. (Para. 5.39)

147. Extension of the system of payment of tax in advance to the Wealth-tax and Expenditure-tax Acts is not necessary for the present. (Para. 5.40)

Provisional and self assessments

148. The introduction of a system of self-assessment either as an addition or as an alternative to the existing procedure of provisional assessments under the Income-tax Act is not favoured. (Para. 5.43)

149. Assessments under Section 23B of the Income-tax Act should generally be confined to cases where the income returned is above Rs. 20,000. Income shown in Section D of Part I of the Income-tax Return and claimed to be not taxable should not be included in the provisional assessments. (Para. 5.43)

150. The Wealth-tax and Expenditure-tax Acts should be amended to provide both for a system of provisional assessment on the lines of Section 23B of the Income-tax Act, and a system of self-assessment under which assesseees would pay tax along with the returns as per their wealth or expenditure declared in them. (Para. 5.44)

Facilities for payment of taxes

151. In all cases a month's time from the date of service of notice should be given for payment of taxes. (Para. 5.45)

152. Arrangements should be made in the tax offices for making payments of tax and cash counters should be opened for this purpose in all the important places. The possibility of opening Government accounts or accounts of the Reserve Bank with scheduled banks into which taxes could be paid should be explored. Cheques drawn on all scheduled banks should be accepted towards payment of tax. The Reserve Bank and the State Bank should be approached for opening branches in Income-tax Offices. The assesseees in the small income group should be given facility of remitting the due amount of tax by money orders and for this, a special type of money order form as now exists in certain States for payment of land revenue should be introduced. (Para. 5.46)

Rebates and discounts

153. Introduction of a system of rebates and discounts as obtaining under the Gift-tax Act, in the other direct taxes Acts is not favoured. (Para. 5.47)

154. Section 18(3) of the Gift-tax Act should be so modified as to provide that the amount of tax to be paid under sub-section (1) of Section 18 of the Gift-tax Act should be the tax that would have been payable under the Schedule had all gifts made during the previous year, including the gifts under consideration, been assessed to gift-tax at the rates given in the Schedule. (Para. 5.48)

Interest and penalty in case of default

155. Without prejudice to Section 46(1) of the Income-tax Act and to corresponding sections of the other direct taxes Acts, the Acts should be amended to allow for automatic accrual of interest at six per cent where taxes are not paid on the due dates. (Para. 5.52)

Lien in favour of revenue

156. Revenue should not be granted an unrestricted lien, without any time limit, over the assets of an assessee. (Para. 5.55)

157. The law should be amended to secure that where the Commissioner is satisfied at any time that an assessee is trying to alienate his assets to defraud the State of its revenue, he may direct the Income-tax Officer to immediately assess the total income of the assessee from the expiry of the last previous year to any

such date as well as for the years not assessed, on the lines of Section 24A (1) of the Income-tax Act. (Para. 5.56)

Recovery from companies and shareholders

158. Section 530 of the Companies Act should be modified to the extent of allowing preferential payments of one year's assessment if assessed for a period prior to the winding up notwithstanding that the assessment was made subsequent to the winding up. (Para. 5.60)

159. The statute should be amended to secure that the priority for the recovery of tax in the case of companies in which the public are not substantially interested within the meaning of Section 23A of the Income-tax Act obtains without any time-limit. (Para. 5.61)

160. The Companies Act should be amended to cast obligations on the liquidator of the company to give intimation regarding liquidation proceedings on the lines of Section 148 of the Internal Revenue Code, 1952 of U.S.A. If necessary, the taxing statutes should also be suitably amended. (Paras. 5.63 and 5.64)

161. Statutory provisions should be made requiring the Registrar of Companies not to strike off a company from the register of companies without obtaining the tax clearance certificate from the Income-tax Officer. (Para. 5.65)

162. In the case of companies in which the public are not substantially interested within the meaning of Section 23A of the Income-tax Act, the liability for the direct taxes should first fall on the assets of the company, then on the directors of the company and lastly on the shareholders in proportion to their holdings. (Para. 5.69)

163. It should be statutorily provided that if the existing shareholders or directors do not come forward to purchase the shares of private limited companies belonging to defaulting directors or shareholders on the basis of the fair value determined according to the provisions of the Wealth-tax Act, the Department shall have the right to sell the shares by auction and the purchasers shall be registered as shareholders of the company, notwithstanding any provisions to the contrary contained in the Memorandum and Articles of Association of the company. (Para. 5.70)

Recovery from firms and partners

164. Suitable amendments in the Income-tax Act should be made to secure that all the assets of the firm are liable to be proceeded against for realising tax due from the defaulting partner of a registered firm in so far as the demand relates to his share of income from the firm. (Para. 5.72)

Recovery from transferred assets

165. Where it is not possible to recover taxes from the assessee in respect of the income aggregated under Sections 16(1) (c) and 16(3) of the Income-tax Act, the Department should have the right to proceed against the legal owner of the assets in respect of the share of tax payable on account of the inclusion of the proportionate income from such assets. However, in a case where the assessment has resulted from a finding of fact that the transfer was a mere benami transaction effected with an intent to evade tax, no such restrictions are necessary. (Para. 5.77)

Section 46(5A) of the Income-tax Act

166. Section 46(5A) of the Income-tax Act should be amended to allow the Department powers to attach joint accounts also. (Para. 5.79)

167. Granting powers to Income-tax Officers under Section 46(5A) of the Income-tax Act to enquire into and decide questions of title etc. is not favoured. However, the law should be modified to provide that even where a garnishee on whom the notice is served disputes or denies the liability the account is frozen. The Income-tax Officer should be empowered to file a suit in the civil court to establish the liability of the garnishee. (Para. 5.80)

Publicising names of defaulters

168. Publicising names of defaulters as a means for effecting speedy collections is not favoured. (Para. 5.82)

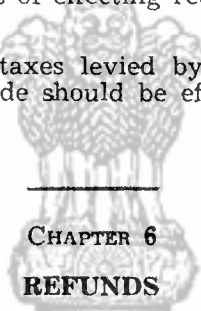
Functional division between assessment and collection

169. No functional division resulting in the assessing officers being divested entirely of the responsibility for collection, is called for. However, they should be relieved of the unnecessary routine work so as to enable them to devote more time to recovery work. (Para. 5.86)

Central Revenue Recovery Code

170. A self-contained Central Revenue Recovery Code, complete in all respects, should be enacted for the purposes of effecting recoveries of direct taxes levied by the Central Government. (Para. 5.93)

171. The recovery of direct taxes levied by the Central Government under the Central Revenue Recovery Code should be effected by the Department of the Central Government itself. (Para. 5.99)



CHAPTER 6

REFUNDS

Direct refund claims

172. The special procedure for the disposal of the refund applications on the very day of their receipt, as obtaining at present at some places like Ahmedabad and Calcutta, should be extended to all the refund circles. (Para. 6.3)

173. The Department should give sufficiently wide publicity to the system of exemption certificates. The refund circles, in particular, should advise the refundees to obtain exemption certificates in fit cases. The exemption certificates should be issued freely and they should be valid for a period of three years. (Para. 6.6)

174. The Department should pay to the assessee interest at six per cent per annum on the amount of refunds due in respect of direct refund claims payment of which is delayed beyond six months from the date of the refund application, unless the applicant is himself mainly responsible for the delay. Interest at a similar rate should be payable in cases where the payment of the refund resulting from appellate or revisionary orders etc. is delayed beyond one month from the date of the receipt of the order concerned by the assessing officer. In cases where settlement of the refund claim is being held up due to non-cooperation from the claimant, a written intimation should be sent to him warning that the settlement of his claim for refund is being held up on account of his non-compliance with the Department's requirements (which may be specified therein) and that no interest will be payable to him for the consequent delay in the issue of refund. (Paras. 6.9 and 6.12)

175. As quick disposal of refund claims is an important means for establishing good relations with the taxpayers, greater importance than at present should be given for disposal of refund applications. (Para. 6.11)

Refunds and dividend taxation

176. The new scheme of taxation of companies and their shareholders as laid down in the Finance Act 1959, is sufficiently simple and easily workable. In order to avoid any difficulty to the shareholders, the Department should issue the exemption certificates freely and should give as many attested copies of the certificates as required by them. (Paras. 6.16 and 6.17)

177. In cases where grossing up of the dividends not covered by the new scheme of company taxation is necessary, settlement of the refund claims involving dividend income should not be kept pending for want of the relevant correct 'grossing factor' and that the claims should be disposed of provisionally on the basis of either the latest 'grossing factor' previously adopted for the company concerned, or the 'grossing factor' that may be ascertained from the company's certificate, whichever is more appropriate in the circumstances of each case. (Para. 6.18)

Other refunds

178. In cases where assessee has paid advance tax under Section 18A of the Income-tax Act in excess of the amount due on the returns filed by them, if the assessment is not finalised within three months of the filing of the return of income, provisional refund of the excess payment should be given to the assessee concerned in the same way as provisional assessment is made under Section 23B of the Income-tax Act for collecting the tax payable, or, alternatively, the Department should pay interest at six per cent on the amount refundable from the date of the filing of the return to the date of the issue of the refund order. (Para. 6.20)

179. There should be no objection in allowing the assessee to seek adjustment of the refunds due to them on account of excess advance payments against other tax demands in cases where the Income-tax officers have failed either to finalise the assessments within three months or give provisional refunds. (Para. 6.21)

Double taxation relief

180. In cases where the claim for double taxation relief cannot be filed within four years from the expiry of the relevant assessment year on account of non-completion of the assessment whether in India or in the foreign country within such time, the claim may be allowed to be made within one year from the date of assessment either in India or in the foreign country, whichever is later. In cases where the claims are filed beyond the permissible time-limits and are thus technically time-barred, the Commissioners of Income-tax should, in deserving cases, condone the delay or extend the time for filing the claims where circumstances warrant such condonation or extension. (Para. 6.23)

181. In order to avoid the necessity for claiming refunds of double taxation relief and the hardships attendant thereto, the Government should conclude bilateral agreements for avoidance of double taxation with as many countries as possible. (Para. 6.28)

182. The Government should take special steps to ensure that the "two-man" committee constituted to arbitrate in cases of disagreement between India and Pakistan regarding the allocation of the income chargeable to tax in either country, meets regularly and decides cases of disagreement. (Para. 6.29)

183. A provision should be made to statutorily extend the time-limit of one year for production of the certificate of foreign assessment in order that the abatement in tax admissible to the assessee under the agreements for avoidance of double taxation is not forfeited. Alternatively, the Government should make some other suitable provision to safeguard the interest and rights of the assessee.

(Para. 6.30)

Payment of refunds

184. Strict instructions should be given to the officers to issue Refund Orders immediately after the refund claim has been settled and to write them out correctly so that there is no difficulty in their encashment. (Paras. 6.31 and 6.32)

185. The currency of the Refund Orders should be the same as for treasury cheques, i.e., three months instead of one month, which obtains at present.

(Para. 6.33)

186. When a refundee makes a request for the payment of the refund to him in cash, it should be paid to him either in cash at the cash counter or remitted to him by postal money order, provided that the amount of refund does not exceed Rs. 250.

(Para. 6.34)

187. When there is no dispute amongst the legal heirs, the refund due to the estate of a deceased should be paid to his son/widow or other legal heirs on their furnishing an indemnity bond and without requiring the production of succession certificates or letters of administration etc.

(Para. 6.35)

CHAPTER 7

EVASION AND AVOIDANCE

Introductory

188. Tax Evasion and Tax Avoidance are neither new nor peculiar to India. They constitute a problem which is prevalent in almost all countries. (Para. 7.2)

189. Whatever be the method an assessee adopts—whether it be avoidance or evasion—the consequence of his action is the same, viz., loss of revenue to the State and an increase *pro tanto* in the burden of tax on the other taxpayers who do not resort to such practices. (Para. 7.3)

190. The quantum of tax-evasion, though undoubtedly high, is not of the magnitude indicated by Prof. Kaldor in his report. (Para. 7.5)

Causes of evasion

191. While it cannot be denied that the higher the rate of tax, the greater will be the temptation for evasion and avoidance, the tax rates by themselves are not to blame for the large extent of evasion in the country. (Para. 7.8)

192. The complicated provisions of the direct taxes Acts, not all of which are easily intelligible, are responsible, to some extent, for tax avoidance and evasion. (Para. 7.9)

193. The inadequacy of the powers vested in the personnel of the Department is yet another cause for tax evasion. (Para. 7.10)

194. It is necessary to have in the Department sufficient numbers of trained and experienced personnel to cope with the current as well as arrear load of assessment and investigation work. Simultaneously, the organisation and procedures of

the Department should be so improved as to bring it to the highest pitch of efficiency. (Para. 7.11)

195. Unless it is brought home to the potential tax evader that attempts at concealment will not only not pay but also actually land him in jail, there could be no effective check against tax evasion. Non-resort to prosecution and non-levy of deterrent penalties have undoubtedly encouraged the growth of evasion. (Para. 7.12)

196. The pressure of public opinion is a major deterrent against any offence and, if the secrecy provisions of the direct taxes Acts are relaxed even to a limited extent, they will go a long way towards checking tax evasion. (Para. 7.13)

197. Suppression of the sales in the case of retail trades in an attempt to evade sales tax also results in evasion of Income-tax. (Para. 7.14)

198. A reformed moral outlook of the citizens and development of a better civic conscience would go a long way in eliminating tax evasion. (Para. 7.15)

199. Mutual distrust between the assessing officers and the taxpayers also encourages, to some extent, tax evasion. The Administration has to take the initiative and trust the assesseees and conduct itself with a high sense of justice and fairplay. (Para. 7.16)

200. Not only should the departmental officials be honest but they must also be above suspicion and they should so conduct themselves in their private as well as official life that no wrong motives could be attributed to any of their actions. (Para. 7.17)

Methods of enquiry and investigation

201. More importance should be given to external survey work, by re-organising the Survey Circles and augmenting the staff in them. In larger cities like Bombay, Calcutta, Madras and Delhi an Inspecting Assistant Commissioner should be placed exclusively in charge of survey work. (Para. 7.19)

202. It should be the responsibility of the Inspecting Assistant Commissioners of the various ranges to see, during the course of inspection, that the information collected during survey is properly utilised by the assessing officers. Particular attention should be paid in survey to the collection of information regarding construction of house properties and the rental incomes therefrom. (Para. 7.21)

203. Inspecting Officers as well as the Commissioners should see, by periodical test-checks, that the work of internal survey is not neglected and does not fall in arrears. (Para. 7.22)

204. The Special Investigation Branches should be re-organised and placed under the charge of Assistant Commissioners in Bombay and Calcutta and under senior Income-tax officers in other charges. (Para. 7.23)

205. Rules may be framed casting an obligation on the Government departments and quasi-Government bodies for communicating information about the payments made to contractors etc., to the Collation Branch of the Income-tax Department. (Para. 7.25)

206. The Collation Branch should be placed under the control of the Director of Investigation and Intelligence, with a Deputy Director of Inspection in-charge. (Para. 7.25)

207. It should be the responsibility of the Inspecting Assistant Commissioners to see that the information received by the assessing officers from the Collation Branch is utilised properly. (Para. 7.25)

208. More Special Circles may be created, as and when necessary. (Para. 7.26)

209. In order to make for better guidance on the spot, greater utilisation of local knowledge and more expeditious disposal of work, control over the Special Circles even in regard to the technical work of making investigations and assessment should be transferred to the territorial Commissioners of Income-tax. (Para. 7.26)

210. The Central charges have proved quite effective in handling cases of tax evasion and they should continue. The arrear cases in these charges are, however, very large, and as large amounts of revenue are involved, greater emphasis should be laid on bringing the assessments upto-date. As soon as the investigations for the relevant period are completed and the assessments brought upto-date, such cases should be re-transferred to the territorial charges and fresh cases requiring investigation taken over by the Central charges. (Para. 7.27)

211. The Directorate of Inspection (Investigation) should be re-organised into a Directorate of Investigation and Intelligence. It should function in a more positive way by itself gathering all useful information and directing the investigational activities of the Department. (Para. 7.29)

212. The Directorate should organise, and be responsible for, the collection, collation and dissemination of all such information as will be useful in determining the correct tax liability of the assessee. (Para. 7.30)

213. The Directorate should not only co-ordinate the investigations carried on in the different Commissioners' charges, but it should also render expert technical assistance in the investigations of specially complicated cases. (Para. 7.31)

214. The Directorate as well as certain Commissioner's offices should be equipped with modern mechanical aids like the photostat machines, infra-red photographic equipment and the ultra-violet equipment. (Para. 7.31)

215. Establishment of a Board of Specialists consisting of non-officials would not be of much help in checking tax evasion. However, officers with proved efficiency and experience in assessments of particular trades and industry should be appointed as specialists in the Directorate of Investigation and Intelligence. For the present, six specialists may be appointed, one each for the following industries and connected trades:—

- (i) Cotton textiles.
- (ii) Other textiles including rayon, and paper.
- (iii) Sugar and connected industries.
- (iv) Iron and Steel and Engineering Industries.
- (v) Cement manufacture and building contractors.
- (vi) Mining and Quarrying, Petroleum and allied products. (Para. 7.32)

216. Once the Income-tax Investigation cases are disposed of, there will be no need for a special body like the Directorate of Inspection (Special Investigation). (Para. 7.33)

217. The constitution of a separate body like the Income-tax Investigation Commission for dealing with cases of large scale evasion is neither feasible nor necessary in the present circumstances. (Para. 7.34)

218. The system of group Assistant Commissioner's charges, apart from having other advantages, helps in checking evasion. (Para. 7.35)

219. Total wealth statements as recommended in the Chapter on Assessments—Procedures (Recommendation No. 25), would be one of the most effective methods of checking tax evasion. (Para. 7.36)

220. Compulsory audit of accounts in cases of income above Rs. 50,000 from business, profession or vocation (also suggested in the Chapter on Assessments—Procedures—Recommendation No. 27) will help the assessing officers in the detection of concealments and manipulation of accounts. (Para. 7.37)

Powers

221. The suggestion that all traders should be statutorily required to keep closed and adjusted accounts on mercantile basis is not capable of implementation at this stage. (Para. 7.40)

222. Any scheme requiring the assesseees to write their accounts in books previously signed and stamped by the officials of the Department will not work satisfactorily and is likely to do more harm than good. (Para. 7.41)

223. In order to avoid any inconvenience to the assesseees, the checking of the current accounts should be done in the business premises of the assesseees, after obtaining the permission of the Commissioner. (Para. 7.42)

224. The statutory provisions regarding search and seizure are, on the whole, adequate and no major change is called for. Timely action is, however, of utmost importance. (Para. 7.43)

225. The feasibility of requiring the banks and other credit institutions to give names and addresses of their constituents, the sum total of whose deposits or withdrawals exceeds rupees one lakh a year, should be examined by Government, in consultation with the Reserve Bank of India. (Para. 7.45)

226. The Life Insurance Corporation should be statutorily required to furnish the name and address of every person taking life insurance policies for sums aggregating to Rs. 50,000 or more, whether in his own name or jointly with another. The general insurance companies should also be statutorily required to furnish brief particulars of general insurance policies of the value of Rs. five lakhs and above, whether taken under one cover or more than one cover by the same person. (Para. 7.46)

227. The suggestion that it should be statutorily provided that payments of money above a specified limit should invariably be made by crossed cheques is not practicable and is therefore, not favoured. (Para. 7.47)

228. It is necessary that the activities of the various revenue Departments in checking evasion of taxes should be properly co-ordinated, and that, for this purpose, there should be a regular and systematic exchange of the useful information available with the various Departments. The existing liaison arrangements between the various Departments should be improved and placed on a more systematic footing. (Para. 7.48)

229. The suggestion that the production of a tax clearance certificate from the assessing officers should be insisted upon by the registration authorities before registering the transfer of properties whose value exceeds a certain limit, is not favoured, as such a restriction does not appear to be necessary. (Para. 7.50)

230. The system of automatic reporting as suggested by Prof. Kaldor in his report would throw an undue volume of work and is unworkable under the conditions existing in India today. (Para. 7.51)

231. In order to discourage tax evaders from entering into *benami* transactions for the purpose of achieving their object, statements made by any party to such a transaction before the direct taxes authorities with regard to the ownership of an asset should be made available, to the other party concerned in the case, if he applies for a copy of it. The secrecy provisions of the direct taxes Acts should be modified to secure this. (Para. 7.53)

232. By means of blank transfers dishonest assesseees are able to conceal their income from the Department and even if the concealments are detected and assessed, they can avoid the payment of the taxes as the shares are not registered in their names, and they cannot, therefore, be attached and sold. The only effective remedy against blank transfers is to provide that all transfer deeds executed by the transferor should be registered by the Stock Exchange and simultaneously date stamped. It should be secured by statute that the transfer deeds should have a currency of only six months from the date of stamping and that multiple transfers will be permitted only within that period of six months. (Para. 7.54)

233. The restrictions in the preceding recommendation should not be applied in cases:—

- (a) where the shares are handed over to a banking company either as a security or for safe custody, or
- (b) where the shares are held on blank transfers by the directors of a company or partners of a registered firm or trustees in a fiduciary capacity.

The banks, however, should be required to communicate to the tax authorities, through an annual statement, brief particulars of the shares held by them under blank transfers. (Para. 7.55)

234. While the present practice of rewarding the informers should continue, a statutory provision should be made for the punishment of informers who give wrong information. The Department should also be provided with the power to grant immunity from penal proceedings or prosecutions to those who having abetted an offence in this respect, come forward to give evidence against an assessee. No action should be taken on anonymous or pseudonymous petitions unless they contain some specific information. (Para. 7.57)

235. The present system of requiring contractors, applicants for import and export licenses, etc. submitting a tax clearance certificate from the assessing officers, and the conditions attached to their issue, are effective in checking tax evasion and defaults in the payment of taxes. Tax clearance certificates should not be refused to those who have evaded or defaulted once but have thereafter kept a clean record with the tax authorities for atleast three years continuously. (Para. 7.58)

Penalties and prosecutions

236. A detailed schedule of penalties should be drawn up and incorporated in the statute book in place of Section 28 of the Income-tax Act and corresponding sections of the other direct taxes Acts. The schedule should make a distinction between cases of deliberate concealment or gross or wilful neglect and others which are not due to fraud, gross or wilful neglect, the levels of penalty for the latter category being much lower than those for the former. The maximum penalty

leviable for concealment or deliberate furnishing of inaccurate particulars should continue to be 150 per cent of the tax sought to be evaded as at present.

(Para. 7.60)

237. The penalty provisions of the direct taxes Acts should be brought in line with Section 49(1) of the Income Tax Act, 1952 of the United Kingdom so that the onus of proving that the omission to disclose income, wealth, etc. did not proceed from any fraud or wilful neglect, is placed on the assessee himself. (Para. 7.61)

238. The prior approval of the Inspecting Assistant Commissioners for the levy of penalty should be obligatory only in cases of more serious offences, where the quantum of penalties leviable are heavier. Further the Inspecting Assistant Commissioners should be statutorily required to give a hearing to the assessee before according his approval to the levy of penalty in such cases. The law should be amended requiring the completion of the penalty proceedings within one year of the passing of the relevant assessment order or of the appellate order of the Appellate Assistant Commissioner or the Appellate Tribunal or of the revision order of the Commissioner, as the case may be. (Para. 7.63)

239. Failure to institute prosecutions even in clear cases of tax evasion cannot be justified. In all cases of deliberate concealment, where there is sufficient evidence, the Department should, as a rule, resort to criminal prosecution.

(Para. 7.65)

240. Government should consider whether Sections 177, 191, 192, 199 and perhaps 181 of the Indian Penal Code should also be specifically referred to in the direct taxes Acts. Resort should be had more frequently to the provisions of the Indian Penal Code than to those of the taxing statutes and there should be a specific provision in the direct taxes Acts permitting the Department to take action also under the Indian Penal Code. Deliberate concealment of income, wealth etc. should be made a specific offence punishable under Section 52 of the Income-tax Act and corresponding provisions of the other direct taxes Acts. There should be a foot-note in the return form itself to the effect that false or incorrect declaration would attract the penalty provided under Sections 28 and 52 of the Income-tax Act or the corresponding provisions of the other direct taxes Acts, as the case may be, and Sections 177 and 199 of the Indian Penal Code. The relevant sections should also be reproduced *in toto* in the return form. (Para. 7.66)

241. Enhancing the maximum period of imprisonment will not in itself serve any useful purpose at the present moment when, practically, no prosecutions have been launched for the past several years. It is also not necessary at the present stage to provide for a minimum period of imprisonment, but if in actual practice hereafter the Department finds that the courts are averse to awarding imprisonment, the question of amending the existing law so as to provide for a minimum period of imprisonment in cases of conviction may be examined. (Para. 7.68)

242. There should be an Enforcement Branch in each Commissioner's charge with the specific responsibility for examining cases suitable for prosecution and for initiating and pursuing prosecution proceedings. Prosecutions in cases of offences referred to in Section 51 of the Income-tax Act and the corresponding provisions of the other direct taxes Acts should be launched with the prior approval of the Commissioner. Prosecutions for offences mentioned in Section 52 of the Income-tax Act and the corresponding provisions of the other direct taxes Acts or any of the provisions of the Indian Penal Code should be launched with the prior approval of the Central Board of Revenue, in order that there may be a uniform policy in this matter. (Para. 7.69)

243. While the existing powers to compound offences for which prosecutions are launched may continue, such powers should be exercised only in exceptional cases and not as a matter of course. In particular, there should be no attempt at compounding an offence merely because the composition fee offered is substantial. Compounding in any case should be done only with the approval of the authority sanctioning the prosecution. (Para. 7.69)

244. Provisions of Section 28(4) of the Income-tax Act and the corresponding provisions of the other direct taxes Acts which bar prosecutions in respect of the same facts on which a penalty has been imposed, should be deleted. (Para. 7.70)

245. Abetment of evasion of tax should be made punishable under the tax laws. A provision similar to the one contained in the Income-tax (Amendment) Bill, 1951 should be introduced in all the direct taxes Acts. (Para. 7.72)

246. The Income-tax return form, in cases of income above Rs. 20,000 and the return forms prescribed under the other direct taxes Acts should provide for a declaration and certificate in a prescribed form to be given by the representative who prepares or assists the assessee in the preparation of the return. (Para. 7.74)

Voluntary disclosures

247. The introduction of a voluntary disclosure scheme on the lines of the 1951 Scheme is not justifiable under the circumstances prevailing at present. (Para. 7.79)

248. Powers of settlement available at present to a limited extent, under the Income-tax Act, for specific types of cases, should be enlarged and the Central Board of Revenue authorised to arrive at settlements with the assessee at any stage of the proceedings under the direct taxes Acts. Administratively, it may be ensured that the disclosure cases are settled by the Commissioner of Income-tax, where the tax involved is Rs. two lakhs or less, and where the tax is over Rs. two lakhs, the case should be settled by a committee consisting of the Chairman and two Members of the Central Board of Revenue. (Para. 7.80)

Suggestions to amend the law

249. The existing law should be amended on the following lines in order to plug the various loopholes:—

- (1) Remittances of foreign profits which are at present exempt under Section 4(1) (b) (iii) of the Income-tax Act, should be made taxable. [Para. 7.81(1)]
- (2) The existing provisions relating to exemption of the income of charitable trusts under Section 4(3) (i) should be amended as follows:—
 - (a) The accounts of all charitable institutions, with the exception of those audited under the requirement of any other law or regulation, having an income of Rs. 5,000 or over, must be compulsorily audited and a certificate from the auditor in a form to be prescribed should be furnished to the assessing officer in support of its claim for exemption from tax.
 - (b) A charitable trust carrying on a business which is not in the course of carrying out the primary object of the trust itself should not be entitled to the exemption under Section 4(3) (i) of the Income-tax Act and this should be made clear in the substantive part of the Section itself.

- (c) Where a trust deed contains a clause that the funds of the trust should also be utilised for the relations and family members of the donor or that in carrying out the charitable objects of the trust priority should be given to such relations or members, exemption should not be available under Section 5(1) (i) of the Wealth-tax Act.
- (d) If any charitable trust had invested, at any time during the previous year, in the shares or capital of an industrial or commercial undertaking, in which the donor was himself substantially interested, an amount more than five per cent of the paidup capital of that undertaking, then the dividends or share income from such investments should not be eligible for exemption and should be taxed in the hands of the trustees
- (e) As regards the other incomes of the trust, they will be exempt if the conditions under Section 4(3) (i) of the Income-tax Act are fulfilled, but if more than 25 per cent of such income of a trust is set apart for being spent subsequently for charitable purposes, the amount set apart in excess of 25 per cent should be taxed in the year in which it is so set apart. The Central Board of Revenue should, however, be empowered to increase this percentage in fit cases.
- (f) If on enquiries into the use to which the properties belonging to a charitable trust were being put to, the assessing officer found that they were being utilised (i) by the donor or his nominees or any of his family members, or, (ii) by a trustee or his nominee or his family, the properties should not be allowed exemption admissible under Section 5(1) (i) of the Wealth-tax Act, unless in the case of (ii) above, the occupation of the property by the trustee was necessary for carrying out the objects of the trust. The assessing officer should also ensure that gift-tax is recovered in respect of the properties enjoyed by such persons. [Para. 7.81(2)]
- (3) Section 10(1) of the Income-tax Act should be amended so as to be consistent with the second proviso to Section 10(2) (vii), providing that even where the assessee had discontinued his business, profession or vocation, profits resulting from the sale of machinery or other assets would be treated as income and subjected to tax. The business expenses incurred after the closing of the business should also be allowed. [Para. 7.81(3)]
- (4) There is no justification for continuing the tax exemption to co-operative societies which are running transport services or controlling large commercial and industrial undertakings, since their dealings are mostly with non-members. It should be specifically laid down in Section 14(3) of the Income-tax Act that the exemption would not be available to the co-operative societies, if their total income exceeds Rs. 20,000. In view of the tax holiday given to new industrial undertakings under Section 15C of the Income-tax Act and also the limitation on the distribution of the profits of the co-operative societies under the various State laws, the changes proposed would not interfere with the growth of genuine co-operative societies. [Para. 7.81(4)]
- (5) A provision similar to Section 16(3) of the Income-tax Act should be made so as to cover cases of assets transferred by wife to the husband.

A further amendment may also be made to Section 16(3) of the Income-tax Act so as to cover transfers of assets to minor children by the mother. [Para. 7.81(5)]

- (6) The law should be modified so as to provide that in cases where a father creates a trust for the benefit of his minor daughter with a stipulation that the income of the trust should be accumulated and added to the corpus and that the daughter should be entitled to receive the income only after attaining majority, such income of the minors would be taxed. [Para. 7.81(6)]

Section 9(2) of the Income-tax Act should be suitably amended so as to provide that in cases where, after transferring the ownership of a residential property to his wife or minor child, without adequate consideration, the transferor continues to reside in it along with the transferee, there is no escapement of proper tax liability. [Para. 7.81(7)]

Section 46A of the Income-tax Act should be amended so as to include the liabilities under the Wealth-tax Act, Expenditure-tax Act and Gift-tax Act also within the scope of that Section. [Para. 7.81(8)]

There is no justification for giving the marriage and children's allowance both to the husband and the wife where they are separately taxable. The law should be suitably amended. [Para. 7.81(9)]

Any industrial or public utility undertaking run as a department of the State Government should also be subjected to tax and, for this purpose, provision should be made in law as envisaged in Article 289(2) of the Constitution. [Para. 7.81(10)]

The law should be so amended that even on the assessee's cessation of his business etc., or retirement from profession or death, income received after such cessation, retirement or death would be taxed. [Para. 7.81(11)]

In the case of companies in which the public are not substantially interested, set off of the earlier years' losses against subsequent profits should be allowed only if the shareholders in the year in which the income is earned are substantially the same as those in the years in which the losses were incurred. [Para. 7.81(12)]

Publicity

250. Evasion could be effectively checked by making public the information relating to the income, wealth etc. declared by the assessee in their returns. The Government may adopt either of the following two methods and prescribe the necessary procedure therefor:—

- (i) communication to any member of the public, on the payment of a specified fee, the amount of income, wealth etc. declared by a person in his return;
- (ii) publication annually in a printed booklet form the names, addresses and declared income, wealth, expenditure etc. of either all assesseees or those above a certain limit. (Para. 7.86)

251. In view of the deterrent effect it would have on attempts at evasion, the names of all persons in whose cases penalties have been imposed for Rs. 5,000 or more for the concealment of income, wealth, expenditure etc. should be published by the Commissioners, in the gazette as well as in the press, giving details of their names, addresses and amounts of penalties. If the assessee concerned is a company or firm, the names of all the directors of the company or partners of the firm, as the case may be, should be published unless it has been established that only a

particular director or partner was responsible for the evasion. The publication should be made only after the penalty has become final in appeal and reference. Central Board of Revenue should have discretion to withhold the publication of names in suitable cases, but the number of cases in which such information was withheld, and the reasons therefor, should be given in the annual administration report but without mentioning the names of such persons. (Para. 7.88)

Arousing public conscience

252. The following measures may be useful in arousing public conscience against tax evasion:—

- (i) People should be educated with regard to the real object of the collection of direct taxes, through press, radio and films.
- (ii) Steps should be taken to convince the tax-payers that the money collected through taxes is not spent wastefully but put to proper use.
- (iii) No official patronage or recognition or awards should be given to persons who have been penalised for concealment or in whose case prosecution proceedings have been taken. Such a person should not be allowed to become a member of any Committee or Commission appointed by Government.
- (iv) Tax evaders should be strictly dealt with and brought to book by the Department in future so that the widely-held feeling in the minds of the public that evasion pays and that evaders are treated lightly is removed. Prosecution proceedings should be launched wherever necessary.
- (v) The co-operation of the chambers of commerce and other professional bodies such as bar associations, medical associations etc. should be enlisted in the matter of wiping out evasion.
- (vi) A special drive should be undertaken to rouse public conscience by enlisting the co-operation of leaders in the various walks of life.

(Para. 7.89)

CHAPTER 8

ADMINISTRATION

Central Board of Revenue

253. It is neither practicable nor desirable to divorce administration entirely from policy making. The Central Board of Revenue should continue to function as the Department of Revenue. (Para. 8.5)

254. It will facilitate the joint functioning of the Central Board of Revenue, to a large extent, and result in a more efficient administration of the different tax laws, if the administration of the direct taxes and that of indirect taxes are entrusted to two separate Boards. However, as the new direct taxes have been introduced recently, and the bifurcation of the present combined Board might involve additional expenditure, the formation of two separate Boards for direct and indirect taxes is not immediately necessary. For the present, there should be two distinct Wings of direct and indirect taxes in the Central Board of Revenue with a common Chairman. After examining the working of the two separate Wings, Government may consider the feasibility of constituting separate Boards for direct and indirect taxes. (Para. 8.8)

255. A list of functions of the Central Board of Revenue where the Members should function jointly and individually should be drawn up and strictly adhered to. There should not be frequent changes in the status of the post of the Chairman or in the composition of the Board. (Para. 8.9)

256. There should be a separate Secretary for the Department of Revenue and this post and that of the Chairman of the Central Board of Revenue should be combined. (Para. 8.10)

257. The Central Board of Revenue should have one more Member to look after the general administrative and organisational matters relating to direct taxes. (Para. 8.11)

258. It should be laid down that each Member of the Central Board of Revenue can function independently on behalf of the Board in respect of the specific work allotted to him and that all orders passed by him should be treated as orders of the Board. In respect of appeals, however, it should be provided that at least two Members of the Board should hear them jointly. Applications for settlement, write off, etc., should be dealt with by the Chairman and two Members acting jointly. On matters of administrative policy as well as those relating to promotions and postings of officers, all the three Members along with the Chairman should take a joint decision. (Para. 8.12)

259. At least half the Members of the Central Board of Revenue dealing with direct taxes should be selected from amongst the officers of the Department. The tenure of appointment as a Member should normally be five years. (Para. 8.13)

260. The recruitment of the officers of the Income-tax Department to the Central Administrative cadre (Pool) of Officers should be increased considerably and greater facilities made available to them to acquire experience of other work. (Para. 8.14)

261. The officers and other staff in the administrative and technical sections of the Central Board of Revenue should be appointed, as far as possible, from amongst the departmental personnel, who have field experience. There should also be a periodical exchange of officers and staff between the Board and the field offices. (Para. 8.15)

262. In order to provide the Central Board of Revenue with expert legal advice in day-to-day work, a senior solicitor or advocate with adequate experience in direct taxes matters should be appointed as Legal Adviser in the office of the Board and given appropriate status and pay. (Para. 8.16)

263. There should be no false economy in engaging experienced and leading members of the Bar and paying the requisite fees for representation on tax matters for the Department. (Para. 8.17)

Directorates

264. The existing three Directorates of Inspection should be reorganised into the following four Directorates:

- (a) Directorate of Inspection.
- (b) Directorate of Investigation and Intelligence.
- (c) Directorate of Vigilance.
- (d) Directorate of Training, Statistics, Research and Publications.

(Para. 8.20)

265. The Directorate of Inspection should carry out administrative inspections of the offices of the Commissioners and Inspecting Assistant Commissioners of

Income-tax. It should also review and test-check the inspection of the work of the assessing officers carried out by the Inspecting Assistant Commissioners and suggest improvements for the organisation and methods of the working of the Department. (Para. 8.21)

266. The functions of the Directorate of Investigation and Intelligence are noted in recommendation Nos. 212 and 213. It should have six experienced Assistant Commissioners working as Specialists to deal with tax problems in respect of specified important industries and trades like textiles, iron and steel, sugar, paper, cement, mining, etc. (Para. 8.22)

267. It is of the utmost importance that the revenue administration should maintain the highest standards of morality and integrity. Besides keeping a constant vigil over the large number of personnel at different levels, the Directorate of Vigilance should see that cases of complaints and disciplinary proceedings are expeditiously dealt with and that dishonest officials are properly brought to book. (Para. 8.23)

268. The Directorate of Training, Statistics, Research and Publications should look after the work of the Training College for the gazetted officers, co-ordinate the training programmes of the non-gazetted staff, see to recruitment of personnel and departmental examinations, compile all the statistical information, carry out research studies in tax matters and be in charge of the publication of tax literature, books and manuals, bulletins and journals, etc. The present office of the Statistician (Income-tax) should be merged with this Directorate. (Paras. 8.24 and 8.25)

269. An Annual Administration Report should be published by the Department and laid on the table of the Parliament. (Para. 8.26)

Commissioners of Income-tax

270. One more Commissioner of Income-tax should be appointed in each of the West Bengal, Bombay City and Bombay North charges. (Para. 8.29)

271. The cadre of Commissioners of Income-tax, Grade II should be abolished, and all the Commissioners should be in one unified grade and get the same scale of pay as given to other heads of departments like the Accountants General, Post-Masters General, Divisional Commissioners, etc., as well as to the members of the Income-tax Appellate Tribunal. (Para. 8.31)

272. There should be further decentralisation and delegation of enlarged powers to the Commissioners of Income-tax in respect of incurring of expenditure on printing and purchase of stationery, legal charges, etc., as well as with regard to appointments, promotions and transfers. (Para. 8.32)

Deputy Commissioners

273. Creation of posts of Deputy Commissioners is not favoured. (Para. 8.34)

Assistant Commissioners

274. The Inspecting Assistant Commissioners should continue to advise and guide the assessing officers in assessment matters. Pre-assessment guidance and control by them is necessary for improving the quality of assessments and checking tax evasion. (Para. 8.39)

275. Inspecting Assistant Commissioners should give to the assessee, whenever asked for, an opportunity of being heard before issuing instructions to the assessing officers. (Para. 8.40)

276. As a general rule, Inspecting Assistant Commissioners should not do assessment work. However, about ten Assistant Commissioners should be entrusted

with actual assessment work in important cases involving large revenues, detailed investigations and complicated questions of facts and law. (Para. 8.41)

277. The system of group charges should be extended and twenty-five more such charges created in important cities. (Para. 8.43)

278. The number of assessing officers under an Inspecting Assistant Commissioner in a non-group charge should be reduced to about twenty so that both administrative and regular inspection of assessment and collection work of each assessing officer is carried out every year. (Para. 8.44)

279. The Inspecting Assistant Commissioners in the group charges should also inspect the work of the assessing officers in the group. (Para. 8.45)

Assessing Officers

280. The Class II cadre of the Income-tax Officers should continue. There should be only one grade for Class I service with an integrated pay scale. (Para. 8.50)

281. The number of Class I posts of Income-tax Officers should be increased by about 100 and a corresponding decrease made in the number of Class II Officers. (Para. 8.51)

282. Income-tax Officers promoted from Class II to Class I should not be given any weightage *vis-a-vis* direct recruits to Class I. (Para. 8.52)

283. The present sanctioned strength of the Income-tax Officers should be increased by about 50. (Para. 8.53)

284. For purposes of evaluation of work and control of output of the assessing officers, categorisation of cases and fixation of disposal in standard units are necessary. (Para. 8.55)

285. The assessing officers should be relieved of the routine administrative work which should be attended to by the office supervisor. (Para. 8.56)

Inspectors

286. The assessing officers and the Inspecting Assistant Commissioners should exercise stricter control and supervision over the work done by the Inspectors. (Para. 8.58)

287. Inspector should be given statutory status under the other direct taxes Acts as under the Income-tax Act. He should carry a written authority under the signature and seal of the assessing officer specifying the points on which he has to make survey and other enquiries. (Paras. 8.59 and 8.60)

288. Merger of the existing two grades of Inspectors, i.e., Ordinary and Selection Grade is not favoured. (Para. 8.61)

289. The present sanctioned strength of Inspectors should be increased by 250. (Para. 8.62)

Ministerial and other staff

290. Each tax office except that of the Appellate Assistant Commissioner should have a whole time supervisory officer. There should be one supervisory officer for every ten clerks and out of the total supervisory posts at least one-third should be in the cadre of Supervisor. (Para. 8.64)

291. Merging the cadre of Head Clerks with that of Supervisors is not favoured. Grade II cadre of Supervisors should be abolished and there should be only one

grade of Supervisor. The present pay scales of the two grades should be integrated for this purpose. There should be Administrative Officers of Gazetted rank in the offices of the Commissioners and Directorates. (Para. 8.65)

292. The direct taxes Offices should be equipped with adequate ministerial staff. (Para. 8.67)

293. The number of Notice Servers and Class IV servants should be suitably reduced, the strength of the latter being too large. The anomaly in the classification of the Notice Servers and Daftries with similar scales of pay should be removed. Class IV staff should not be required to do private and domestic work of the officers, and the nature of their official duties should be clearly defined. (Paras. 8.68 to 8.70)

Recruitment, training and promotion

294. Both direct recruitment and promotion in specific proportions are necessary to secure a correct and balanced blending of fresh talent and mature experience. The normal quota for promotion to the cadres of Inspectors and Upper Division Clerks should remain at 50 per cent. as obtaining at present, and no direct recruitment need be made to the cadre of Class II Income-tax Officers. Merit and efficiency should be the sole criteria for filling of selection posts in any cadre and quality should not be sacrificed merely for reaching the quotas fixed. (Paras. 8.71 and 8.72)

295. While allotting the candidates who are successful in the combined competitive examination held by the Union Public Service Commission, to the various Class I services, a due proportion of the higher ranking candidates should be posted to the direct taxes Department. (Para. 8.74)

296. The ministerial staff should also be recruited on the basis of open competitive examinations. Preference should be given to persons possessing commercial and accountancy qualifications. The final selection should be made by Committees consisting of at least three persons. (Para. 8.75)

297. There should be a whole time Principal in charge of the Training College for Income-tax Officers. He should be assisted by a complement of full time instructors in the various subjects. (Para. 8.78)

298. The Training College should provide specialised training for sixteen months, after the four months foundational training course for all services. Greater attention should be paid to the practical training of the Probationary Income-tax Officers. Emphasis should be laid on developing the qualities of leadership, initiative and self-confidence amongst them. Adequate instruction should also be given in the techniques and problems of public relations and administration. (Paras. 8.79 and 8.80)

299. Officers appointed as Income-tax Officers on promotion from the lower ranks should be given a restricted course of training for at least six months in the Training College. (Para. 8.81)

300. The Training College should organise regular refresher courses of four months' duration for senior assessing officers with five to eight years of service. (Para. 8.82)

301. Selected Assistant Commissioners should be sent periodically to the Administrative Staff College at Hyderabad for an all-round advance course in administration and management. (Para. 8.82)

302. There should be four regional centres for training of Inspectors each under the charge of a senior Income-tax Officer. (Para. 8.83)

303. Arrangements for the training of ministerial staff under the charge of a selected senior Supervisor should be made in each Commissioner's charge preferably at the respective headquarters. (Para. 8.84)

304. Instructors should themselves be qualified and given a short course of training. (Para. 8.85)

305. No change in the existing classification of the various posts, for purposes of promotion into 'Selection' and 'non-Selection' posts is considered necessary except with regard to Inspectors (Selection Grade). (Para. 8.86)

306. The present forms of annual confidential reports should be rationalised. The counter-signing officer should, in particular, give his own views about the suitability of the person reported upon for promotion to the next higher grade. (Para. 8.87)

307. Seniority for purposes of promotion to the next higher grade should be regulated with reference to the date or the year of passing the departmental examination prescribed for the grade concerned. (Para. 8.89)

308. The existing restriction not permitting a person to appear in the departmental examination for a higher grade until he is actually working in the immediate lower grade should be relaxed. A period of five years should be fixed for taking the next higher examination after the person concerned has passed the lower examination. (Para. 8.90)

309. The benefit of granting two advance increments on passing the departmental examination for the next higher grade should be made available to all categories of staff including the steno-typists and stenographers. The benefit should also not be limited to the minimum of the pay scale of the next higher grade. (Para. 8.91)

Conditions of service

310. The officers of the Income-tax Department in particular require special consideration in respect of pay scales and conditions of service having regard to their nature of work and the difficult duties they have to perform. The pay structure of all ranks, specially in respect of the gazetted officers of this important Department should be commensurate with their powers and responsibilities. (Para. 8.94)

311. Every effort should be made to depute a sufficiently large number of the officers of the Income-tax Department to other departments and organisations, but they should come back to the Department after a specified tenure. (Para. 8.95)

312. The delay in confirming temporary/officiating officials should be avoided, and such of the temporary posts as have been in existence for more than three years and which are not likely to be discontinued should be made permanent. (Para. 8.96)

313. Periodical transfers of staff from one station to another and from one post to another are necessary, but they should not be too frequent. (Para. 8.97)

314. One month's notice of transfers should generally be given to the officers. During this period they must pass final orders in all cases where hearings and investigations have been completed and endeavour to complete as many of the partly heard matters as possible. Before handing over charge on transfer, officers

of all ranks should be required to send to their immediate superior officers, a certificate to the effect that all fully heard cases have been disposed of. A list of the partly completed work with full details and reasons for the pendency should also be furnished by such officers. (Para. 8.99)

315. The Government should, in consultation with the Comptroller and Auditor General, devise suitable means for avoiding delays in the issue of pay slips, payment of leave salaries and settlement of pension, gratuity and provident fund claims, etc. (Para. 8.100)

316. All staff employed in survey and outdoor enquiry work as also assessing officers in special survey circles should be given reasonable conveyance allowance. (Para. 8.101)

317. Suitable arrangements should be made with the State Governments to ensure that there is no discrimination against Central Government officers in the matter of providing accommodation in Circuit Houses, Rest Houses, Inspection Bungalows, etc., belonging to the different States, and in regard to the charges for such accommodation as compared to the facilities given to the State Government officers. (Para. 8.102)

318. Adequate funds should be specifically allotted for the construction of residential houses for the officers and staff of the Department. So long as this is not done, arrangements should be made to hire suitable accommodation for them. (Para. 8.103)

319. The Central Government should organise schools in the various important cities and towns for the education of the children of all the Government servants. In the meantime, arrangements should be made with the State Governments and important educational Institutions for securing admission on a priority basis to the schools for the children of a transferred official. (Para. 8.104)

320. Adequate medical facilities should be afforded to the staff of the Department. (Para. 8.105)

321. The Department should provide cheap holiday homes at hill stations and other health resorts for its employees. (Para. 8.106)

322. The various staff welfare activities should be further enlarged. (Para. 8.107)

323. Staff Committees should be constituted in all Commissioners' charges at their respective headquarters. (Para. 8.108)

324. A sense of discipline and responsibility should be inculcated in the staff. Cases of indisciplined conduct should be promptly looked into and due steps taken to punish the wrong doers, wherever necessary. (Para. 8.109)

Office equipment and accommodation

325. Better office accommodation and necessary supply of office equipment and appliances will not only improve the working conditions of the staff but will result in increased efficiency and greater convenience to the assessee. (Para. 8.110)

326. Timely and adequate supply of stationery and the forms to the tax offices should be ensured. For this purpose, the requirements of the Department should be given a sufficiently high priority. The responsibility for arranging supply of stationery and printing of forms, etc., for the Department should be entrusted to a

separate section of Printing and Stationery. The Commissioners should have full financial powers for the local purchase of stationery or printing of forms if their requirements are not met by the Controller of Printing and Stationery in time. The subordinate authorities should also be given suitable financial powers for such local arrangements. (Para. 8.111)

327. Typewriters should be supplied to the offices in sufficient numbers and other modern appliances also made available looking to the needs and exigencies of work. (Para. 8.112)

328. Sufficient funds should be specifically allotted for the construction of office buildings for the Department and the rules regarding hiring of private accommodation be also suitably liberalised. (Para. 8.113)

Cost of collection

329. The increase in the cost of administration during the past years was justified and necessary. The cost of administration should, no doubt be kept as low as practicable but it should not be at the cost of the Department's efforts in checking tax evasion and improving its overall efficiency. (Paras. 8.115 and 8.116)

Prevention of malpractices

330. Highest standards of integrity, honesty and fairplay are essential in the Department. The stakes involved in a Revenue Department are very high and, therefore, a very strict vigilance is called for. The Department should have a strong and effective machinery but at the same time the procedures and the methods of work should be so designed as not to cause any fear of harassment or inconvenience to the assessee. (Paras. 8.117 to 8.119)

331. Apart from the Directorate of Vigilance, there should be vigilance sections in each Commissioner's charge for organising and co-ordinating the vigilance work in the charge and for making expeditious enquiries into complaints received and early finalisation of the disciplinary proceedings. (Para. 8.119)

332. All officials of the Income-tax Department should be required to send every fourth year a complete statement of their total wealth, both immovable and movable, including those in the names of wife and children and other family members. The Income-tax assessments of the gazetted officers of the Department should be centralised in a circle at headquarters. (Para. 8.120)

333. Accepting of gifts on weddings and other occasions from other than relations or close friends and the acceptance of private hospitality, free entertainments and other obligations from the public should be strictly discountenanced. (Para. 8.121)

334. Undue importance, particularly in a taxing department, should not be attached to anonymous and pseudonymous complaints and nothing should be done to disturb the morale of the officers in the discharge of their duties. (Para. 8.122)

335. The Government should take a policy decision so as to prevent the officers of the Department leaving Government service prematurely and joining private employment. (Para. 8.123)

336. Provisions similar to Section 13(3) as well as Sections 7(7) and 50(1) of the U.K. Income-tax Act, 1952 should be incorporated in the direct taxes statutes, but to safeguard against the misuse of these powers, the complaints should first be made to the Central Board of Revenue who would initiate proceedings after making necessary enquiries. (Para. 8.125)

Representation of assesseees by tax experts

337. Restriction of the right to represent assesseees to the Chartered Accountants and the Lawyers would cause undue hardship to the small income assesseees and the Income-tax practitioners should, therefore, be allowed to continue.

(Para. 8.127)

338. To improve the quality of representation by Income-tax practitioners, the minimum educational qualification for them should be a degree in commerce of any of the recognised Universities. In addition, they should be required to pass a written examination in accountancy and tax laws to be held by the Department. The existing Income-tax practitioners should, however, be allowed to continue to represent assesseees irrespective of their qualifications and they should be exempted from taking this test. The Income-tax practitioners should also be permitted to represent tax-payers under all the direct taxes laws.

(Para. 8.128)

339. It would be neither practicable nor desirable to completely prohibit Departmental persons from tax practice after retirement or resignation. However, they should not be allowed to represent assesseees for a period of two years after retirement or resignation without the previous permission of the Central Board of Revenue except in cases of persons who desire to engage in tax practice on resigning within a period of three years after joining the Department. The Board should give the permission subject to the condition that the person concerned will not be entitled to tax practice in the State or the Commissioner's charges where he had served at any time during the three years immediately preceding his retirement or resignation. As regards the officers having all-India jurisdiction like the Directors, permission for tax practice should be given to them on the further condition that they should not represent assesseees whose cases have been dealt with by them during the three years preceding their retirement or resignation.

(Para. 8.130)

340. Admission of the various classes of professional experts to tax practice should be regulated by a system of registration with the Department.

(Para. 8.131)

341. Disciplinary jurisdiction over the Income-tax practitioners should continue to remain with the Commissioners, who should use their authority with greater vigilance.

(Para. 8.133)

342. In the case of lawyers and chartered accountants the present procedure with regard to disciplinary action and the ultimate jurisdiction of the High Court as provided for under Section 10(1) of the Bar Council Act, 1926 and Section 21 of the Chartered Accountants Act 1949 should continue. However, a slight departure from the general procedure would be justified. The report of the enquiry of the Bar Council or the District Judge in the case of misconduct by a lawyer and of the Disciplinary Committee of the Institute of Chartered Accountants in case of one of its members should be submitted to the President of the Income-tax Appellate Tribunal, who will pass orders after hearing the complainant, the respondent and the Council of the Institute of Chartered Accountants or the Bar Council as the case may be. This procedure is suggested subject to our recommendation about the appointment of a High Court Judge as the President of the Income-tax Appellate Tribunal being accepted. Any appeal from the decision of the President of the Income-tax Appellate Tribunal will go to the respective High Courts.

(Paras. 8.134 and 8.135)

343. The Government nominee on the Disciplinary Committee of the Council of the Institute of Chartered Accountants should be a representative of the Central Board of Revenue. Similarly, whenever such a case regarding the conduct of a lawyer before the direct taxes authorities is inquired into by the Bar Council, the

Standing Counsel of the Department should be co-opted as a member of that Council for this purpose, if he is not already a member of the Bar Council concerned. (Para. 8.136)

344. If a tax expert is finally convicted for evasion of tax as a result of prosecution under the provisions of the direct taxes Acts, he should be straightaway disqualified from the tax practice and his name removed from the register. Similarly, the conviction of a tax expert under the direct taxes Acts on charges of abetting or aiding his clients in tax evasion, should result in automatic disqualification from tax practice. Any tax expert, who is penalised under the direct taxes Acts for concealment of income, wealth, estate, gift or expenditure should be disqualified from representation after the penalty proceedings have become final. However, the usual disciplinary procedure should be followed in such cases of penalty and disqualification should not be automatic. (Para. 8.137)

345. The standards about the code of conduct and responsibilities that apply to Chartered Accountants and Lawyers in the United Kingdom should apply to Chartered Accountants and Lawyers in India. (Paras. 8.138 and 8.139)

CHAPTER 9

PUBLIC RELATIONS

Factors influencing public relations

346. While the officers of the Department have necessarily to be firm in the discharge of their duties, and function without fear or favour, they must be sympathetic to the taxpayers, and show due consideration for their doubts and difficulties. (Para. 9.4)

347. It must be the duty of every officer of the Department to bring to the assessee's notice any allowance, rebate or relief that may be legitimately due to them. The higher authorities should view any omission in this regard very seriously and take such punitive and remedial action as may be necessary in the circumstances of the case. (Paras. 9.6 and 9.7)

348. The criterion for judging the worth of the assessment work, should be not the highly-pitched assessments which are ultimately reduced in appeals, but the making of realistic assessments which stand the test of appeal. The existing administrative instructions to this effect, need to be re-emphasised. (Para. 9.9)

349. Effective steps should be taken to see that the records are kept properly and that there is a fool-proof system for getting and filing of necessary receipts for the various documents, papers, payments etc. (Para. 9.10)

350. The targets for disposal of assessments and collection of taxes must be so fixed as do not, in any way, lead to over-assessments and harassment of the assessee. (Para. 9.11)

351. The Central Board of Revenue should see that its instructions prohibiting the officers from fixing up all the cases at the same hour of the day, and requiring them to call the assessee at suitable intervals distributed throughout the day are scrupulously followed and the daily cause list placed on the notice board. (Para. 9.12)

352. The officers should observe the office hours punctually and should see that the assessee is not made to spend more than the minimum necessary time in the tax offices. (Para. 9.14)

353. The officers should spare at least half an hour of their working period every day to attend to persons who visit the tax offices on their own to make various enquiries and seek clarifications. The period for interviews should be prominently notified. Besides, all tax offices should have Enquiry Counters where the assessee can make various routine enquiries without having to wait to see the officers. (Para. 9.15)

354. The staff dealing with the issue of tax clearance certificates should be strengthened, and in particular, the number of Income-tax Officers, Foreign Section, entrusted with the issue of the certificates under Section 46A of the Income-tax Act should be enlarged so that there is at least one such officer at the headquarters of each State or the Commissioner of Income-tax. (Para. 9.17)

355. An applicant for Tax Clearance/Exemption Certificates under Section 46A of the Income-tax Act should be required to furnish, in duplicate, an application in the prescribed form to his assessing officer who should deliver one copy of the Authorisation to the applicant and send another copy of it along with a copy of the application, duly endorsed, to the Income-tax Officer, Foreign Section, concerned. The applicant or his representative should then present the Authorisation to the Income-tax Officer, Foreign Section for exchanging it with the Tax Clearance/Exemption Certificate. (Para. 9.19)

356. All the forms necessary for obtaining the various certificates should be standardised and printed, and made freely available to the assessee on request. (Para. 9.20)

357. All complaints of inconvenience in the tax offices should be quickly remedied. Adequate and proper amenities, such as waiting rooms, furniture, reading material, cool drinking water, canteens, public telephones, sanitary arrangements, parking space, etc. for the assessee and their representatives should be provided in all tax offices. (Para. 9.22)

Information and guidance to the assessee

358. Greater attention should be paid to organised departmental publicity, and more tax literature in the form of pamphlets, booklets etc. dealing with the various branches of taxation should be issued. Detailed explanatory notes about the various forms of returns should also be made freely available to the public. The Department should also publish a Tax Journal. (Para. 9.24)

359. The various notifications and circulars issued by the Central Board of Revenue having a bearing on the application of the taxation laws and affecting the assessee's interests, directly or indirectly, should be made known to the public. (Para. 9.26)

360. The modern media of communication with the public such as radio, motion pictures and other visual aids, should be regarded as essential in the programme of developing public relations. (Para. 9.27)

361. In places other than those where Public Relations Officers function, Enquiry Counters, should be responsible for assisting the assessee in filling up various return forms, explaining their difficulties and doubts, answering their various queries and guiding them in all possible ways. (Para. 9.28)

362. Facilities provided by the chambers of commerce etc. to educate their members about the tax matters should be further enlarged and the Department should usefully establish some liaison arrangements with them for this purpose. (Para. 9.30)

363. It will facilitate the administration of the tax laws and avoid undue inconvenience to the assesseees if the Central Board of Revenue or the Commissioner gives opinion on the points referred by the assesseees, provided that all the facts relevant to the points at issue are made available and the relevant points are not pending for decision before any appellate authority. (Para. 9.31)

Redress of grievances

364. All the gazetted officers of the Department, in particular, the Inspecting Assistant Commissioners and the Commissioners, should keep their doors open for any member of the public to walk in and voice his grievances. These officers should, for the sake of convenience, keep certain fixed hours everyday for the public to meet them. Complaint and suggestion boxes should be provided in all tax offices including those of the Assistant Commissioners, Commissioners and Appellate Tribunal Benches. (Para. 9.33)

Public Relations Officers

365. The Public Relations Officers can prove very useful and helpful in promoting better relations between the Department and the public. There should be a whole-time Public Relations Officer in the charge of each Commissioner of Income-tax. The Public Relations Officers in important places like Bombay and Calcutta should be of the rank of Assistant Commissioners, and those in other places should be at least senior Class I, Grade I officers (Para. 9.38)

366. One of the Members of the Central Board of Revenue should be in specific charge of 'public relations'. (Para. 9.40)

Direct Taxes Advisory Committees

367. A Direct Taxes Central Advisory Committee should be set up for the Headquarters organisation under the Chairmanship of the Union Minister for Revenue and Civil Expenditure. In addition, similar Committees should be constituted separately for the various regional organisations under the Chairmanship of the Commissioner concerned. These Committees should fully represent the important interests and view points, and consist of Members of Parliament, representatives of Central and/or State Governments, commerce, industry and other organisations, and professional tax experts. They should advise the Administration on measures for developing and encouraging mutual understanding and co-operation between the tax-payers and the Department. (Paras. 9.44 to 9.46)

(Sd.) MAHAVIR TYAGI—*Chairman*.

(Sd.) RAJENDRA PRATAP SINHA—*Member*.

(Sd.) B. M. GUPTE—*Member*.

* (Sd.) G. P. KAPADIA—*Member*.

(Sd.) K. S. SUNDARA RAJAN—*Member*.

(Sd.) F. H. VALLIBHOY,
Secretary.

NEW DELHI;

The 25th November, 1959.

* Summary signed subject to my separate memorandum given separately.